TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1900.

No. 181.

THE COUNTY OF APACHE, APPELLANT,

vs.

JULIA BARTH, EXECUTRIX OF JACOB BARTH, DECEASED.

APPEAL FROM THE SUPREME COURT OF THE TERRITORY OF ARIZONA.

FILED JANUARY 3, 1900.

(17,244.)

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1 In the District Court for Apache County, Arizona Territory.

JACOB BARTH, Plaintiff,
vs.
APACHE COUNTY, Defendant. } No. 2619. Complaint.

Filed in dist. court, Apache Co., Sept. 10th, 1891, by John T. Hogne, clerk. Filed in dist. court, Coconino Co., October 3rd, 1891, by E. S. Clark, clerk. Filed in dist. court, Yavapai Co., # 2543, March 30th, 1896, by A. J. Herndon, clerk. Filed in dist. court, Maricopa Co., May 6th, 1896, by J. E. Walker, clerk.

Said plaintiff for cause of complaint alleges:

I.

That at all of the dates hereinafter mentioned said plaintiff was and is now a resident of the city of Grand Rapids, county of Kent and State of Michigan, and that defendant was and is now a body politic and corporate in said Territory and known as Apache county and organized and created a municipal corporation by the laws of said Territory of Arizona.

II.

That defendant is indebted to plaintiff in the sum of seven thousand seven hundred and seventy dollars ($7,770.75) and seventy-five cents for and on account of forty warrants or writings
2 obligatory, which said defendant, acting through its agents, to wit, its duly elected, qualified, commissioned, and acting board of supervisors, between the 5th day of August, 1884, and the first day of January, 1885, in its regular open sessions, as provided by law, made, executed, issued, and delivered, as said board of supervisors had the right to do, to the persons in said warrants or writings obligatory respectively named, for certain sums of money in said warrants or writings obligatory respectively mentioned, found by said board of supervisors to be due and owing to said persons for and on account of certain work done, labor performed, services rendered, and materials theretofore furnished to said defendant at the special instance and request of said defendant, all of which said warrants or writings obligatory were after their said issuance and heretofore presented for payment to the treasurer of said Apache county and by him refused payment and by him registered for payment and by him endorsed that they were not paid for want of funds in said Apache county's treasury, and the date of said presentation, which said endorsement was by said treasurer signed officially, as provided by law; and thereafter, after said treasurer gave notice that he was prepared to pay said warrants, all of them were again presented to and payment thereof demanded from said treasurer, which was then and there by him refused, and all of which said warrants or writings obligatory were after such presentation to said treasurer and heretofore, to wit, on

or about the 9th day of January, 1888, duly presented to said board of supervisors of said Apache county for funding and payment at the regular and open session thereof,
3 in persuance of notice published by defendant April 5th, 1887, that it would pay and fund by issuing bonds for its then outstanding indebtedness, inclusive of the warrants hereinafter described, a certified copy of which said notice is hereto attached, marked "Exhibit A," and made a part hereof in accordance with chapter 2 of title XXXI of Revised Statutes of Arizona for 1887, and payment & funding thereof and of each of them demanded, and by said board of supervisors the payment and funding of each and all of them was refused. The aggregate face value of all of which said warrants or writings obligatory is the sum of $7,770.75, and each of said warrants or writings obligatory from the date of its said presentation to and endorsement by said treasurer of said county, as aforesaid, bears interest at the rate of ten per cent. per annum; all of which said warrants or writings obligatory have been by the lawful owners thereof, here ofore for a valuable consideration, transferred and assigned to and are now owned, possessed, and are the property of this plaintiff, of which defendant had due notice, and none of which have been paid, and there is now due plaintiff from defendant thereon the sum of $7,770.75 and interest thereon, as aforesaid, at the rate of ten per cent. per annum, from the first day of January, 1885, and prior to the institution of this suit and since the presentation for payment of said warrants to defendant's treasurer and his refusal to pay the same because of lack of funds in July, August, and December, 1884, to wit, in 1888, at the time of the second demand for payment of said warrants from defendant and said defendant's refusal to pay the same, there was and
4 has often been since said date 1888 ample money in defendant's treasury with which to pay all of said warrants.

III.

That said defendant has not paid said indebtedness or any part thereof, but so to do has wholly refused and failed, though payment thereof has been by plaintiff often heretofore demanded.

And for a separate and second cause of action plaintiff alleges:

1.

Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraph- 1 and 2 of the first count of this complaint to save repetition.

2.

That on the 13th day of July, 1884, said defendant, acting through its lawful agents, to wit, its board of supervisors, in its open and regular session, made, executed, issued, and delivered to Julius Becker its warrant or writing obligatory in the following words and figures, to wit:

No. 17. *Apache County Warrant.* $69.50.

Road fund.

ST. JOHNS, A. T., *July 13th*, 1884.

The treasurer of Apache county will pay to Julius Becker or order the sum of sixty-nine and $\frac{50}{100}$ dollars for road-work.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHARLES KINNEAR,
Clerk Board of Supervisors.

Wherein and whereby said defendant undertook and promised to pay to said Julius Becker on demand said sum of money in said warrant mentioned for and on account of work done on defendant's roads by said Julius Becker at said defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treasurer of Apache county, and by him payment thereof was refused, and by him said warrant was duly registered for payment and endorsed as follows, to wit: "Not paid for want of funds. Presented this 12th of July, 1884. D. Baca, Co. treasurer; A. Ruiz, deputy," as provided by law.

4.

That after its said issuance by said board of supervisors said warrant was endorsed Julius Becker, Sol. Barth, and by said endorser, for a valuable consideration, sold and delivered and now belongs to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant plaintiff presented the same to him and demanded payment thereof, which was by him refused, and thereafter and heretofore plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of said Apache county, then and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of sixty-nine and $\frac{50}{100}$ dollars and interest thereon, at the rate of ten per cent. per annum, from said 12th day of July, 1884, is due from defendant to this plaintiff on said warrant.

And for a separate and third cause of action plaintiff alleges:

1.

Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraph one and two of the first count of this complaint to save repetition.

2.

That on the 6th day of August, 1884, said defendant, acting through its lawful agents, to wit, its board of supervisors, in its open and regular session, made, executed, issued, and delivered to A. M. Boyer its warrant or writing obligatory in the following words and figures, to wit:

"No. 159. *Apache County Warrant.* $77.50.

General fund.

St. Johns, A. T., *Aug. 6th*, 1884.

The treasurer of Apache county will pay to A. M. Boyer or order the sum of seventy-seven and $\frac{50}{100}$ dollars for board of prisoners.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors."

Wherein and whereby said defendant undertook and promised to pay to said A. M. Boyer on demand said sum of money in said warrant mentioned for and on account of board furnished to defendant's prisoners by said A. M. Boyer at said defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treasurer of Apache county, and by him payment thereof was refused, and by him said warrant was duly registered for payment and endorsed as follows, to wit: "Not paid for want of funds. Presented Aug. 6th, 1884. D. Baca, treasurer; A. Ruiz, dept. treasurer," as provided by law.

4.

That after its said issuance by said board of supervisors said warrant was endorsed A. M. Boyer & Sol. Barth, and by said endorser, for a valuable consideration, sold and delivered and now belongs to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant, plaintiff presented the same to him and demanded payment thereof, which was by him refused, and thereafter and heretofore plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of said Apache county, then and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of seventy-seven and $\frac{50}{100}$ dollars and interest thereon, at the rate of ten per cent. per annum, from said 6th day

of August, 1884, is due from defendant to this plaintiff on said warrant.

And for a separate and fourth cause of action plaintiff alleges:

1.

Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraph- 1 and 2 of the first count of this complaint to save repetition.

8

2.

That on the 6th day of August, 1884, said defendant, acting through its lawful agents, to wit, its board of supervisors, in its open and regular session, made, executed, issued, and delivered to M. Barth its warrant or writing obligatory in the following words and figures, to wit:

"No. 160. *Apache County Warrant.* $130.00.

General fund.

ST. JOHNS, A. T., *Aug. 6th*, 1884.

The treasurer of Apache county will pay to M. Barth or order the sum of one hundred and thirty dollars for services as constable.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors."

Wherein and whereby said defendant undertook and promised to pay to said M. Barth on demand said sum of money in said warrant mentioned for and on account of services rendered to defendant as a constable by said M. Barth at said defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treasurer of Apache county, and by him payment thereof was refused, and by him said warrant was duly registered for payment and endorsed as follows, to wit: "Not paid for want of funds. Presented Aug. 6th, 1884. D. Baca, treasurer; A. Ruiz, dep. treasurer," as provided by law.

4.

9 That after its said issuance by said board of supervisors said warrant was endorsed M. Barth, and by said endorser, for a valuable consideration, sold and delivered and now belongs to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant,

plaintiff presented the same to him and demanded payment thereof, which was by him refused, and thereafter and heretofore plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of said Apache county, then and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of one hundred and thirty dollars and interest thereon, at the rate of ten per cent. per annum, from said August 6th, 1884, is due from defendant to this plaintiff on said warrant.

And for a separate and fifth cause of action plaintiff alleges:

1.

Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraph 1 and 2 of the first count of this complaint to save repetition.

2.

That on the 6th day of August, 1884, said defendant, acting through its lawful agents, to wit, its board of supervisors, in its open and regular session, made, executed, issued, and delivered to J. H. Wilson its warrant or writing obligatory in the following words and figures, to wit:

" No. 156. *Apache County Warrant.* $137.00.

General fund.

St. Johns, A. T., *Aug. 6th*, 1884.

The treasurer of Apache county will pay to J. H. Wilson or order the sum of one hundred and thirty-seven dollars for services as constable.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors."

Wherein and whereby said defendant undertook and promised to pay to said J. H. Wilson on demand said sum of money in said warrant mentioned for and on account of services rendered to said defendant as constable by said J. H. Wilson at said defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treasurer of Apache county, and by him payment thereof was refused, and by him said warrant was duly registered for payment and endorsed as follows, to wit: " Not paid for want of funds. Presented Aug. 6th, 1884. D. Baca, treasurer; A. Ruiz, dep. treasurer," as provided by law.

4.

That after its said issuance by said board of supervisors said warrant was endorsed J. H. Wilson & Morris Barth, and by said endorser for a valuable consideration sold and delivered and now belongs to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as
11 provided by law, that said treasurer was prepared to pay said warrant, plaintiff presented the same to him and demanded payment thereof, which was by him refused, and thereafter and heretofore plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of said Apache county, then and there being in open and regular session, and payment thereof was refused.

Wherefore said sum of one hundred and thirty-seven dollars and interest thereon, at the rate of ten per cent. per annum, from said August 6th, 1884, is due from defendant to this plaintiff on said warrant.

And for a separate and sixth cause of action plaintiff alleges:

1.

Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraph 1 & 2 of the first count of this complaint to save repetition.

2.

That on the 6th day of August, 1884, said defendant, acting through its lawful agents, to wit, its board of supervisors, in its open and regular session, made, executed, issued, and delivered to T. J. Shuflin its warrant or writing obligatory in the following words and figures, to wit:

"No. 157. *Apache County Warrant.* $175.00.

General fund.

St. Johns, A. T., *August 6th*, 1884.

The treasurer of Apache county will pay to T. J. Shuflin or order the sum of one hundred and seventy-five dollars for services as deputy sheriff.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors."

12 Wherein and whereby said defendant undertook and promised to pay to said T. J. Shuflin on demand said sum of money in said warrant mentioned for and on account of services rendered to said defendant as deputy sheriff by said T. J. Shuflin at said defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treasurer of Apache county, and by him payment thereof was refused, and by him said warrant was duly registered for payment and endorsed as follows, to wit: "Not paid for want of funds. Presented Aug't 6th, 1884. D. Baca, treasurer; A. Ruiz, dep. treasurer," as provided by law.

4.

That after its said issuance by said board of supervisors said warrant was endorsed T. J. Shuflin & Sol. Barth, and by said endorsers for a valuable consideration sold and delivered and now belongs to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant, plaintiff presented the same to him and demanded payment thereof, which was by him refused, and thereafter and heretofore plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of said Apache county, then and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of one hundred and seventy-five dollars and interest thereon, at the rate of ten per cent. per annum, from said August 6th, 1884, is due from defendant to this plaintiff on said warrant.

And for a separate and seventh cause of action plaintiff
13 alleges:

1.

Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraphs 1 and 2 of the first count of this complaint to save repetition.

2.

That on the 6th day of August, 1884, said defendant, acting through its lawful agents, to wit, its board of supervisors, in its open and regular session, made, executed, issued, and delivered to Houck & McDonald its warrant or writing obligatory in the following words and figures, to wit:

"No. 138. *Apache County Warrant.* $121.00.

General fund.

St. Johns, A. T., *August 6th*, 1884.

The treasurer of Apache county will pay to Houck & McDonald

or order the sum of one hundred and twenty-one dollars for sheriff's expenses.

LUTHER MARTIN,
Chairman of Board of Supervisors.
CHAS. KINNEAR,
Clerk of Board of Supervisors.

Wherein and whereby said defendant undertook and promised to pay to said Houck & McDonald on demand said sum of money in said warrant mentioned for and on account of services rendered to said defendant's sheriff by said Houck & McDonald at said defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treasurer of Apache county, and by him payment thereof was refused, and by him said warrant was duly registered for payment and endorsed as follows, to wit: "Not paid for want of funds. Presented August 6th, 1884. D. Baca, treasurer; A. Ruiz, deputy treasurer," as provided by law.

14 4.

That after its said issuance by said board of supervisors said warrant was endorsed Houck & McDonald, and by said endorser for a valuable consideration sold and delivered and now belongs to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant, plaintiff presented the same to him and demanded the payment thereof, which was by him refused, and thereafter and heretofore plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of said Apache county, then and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of one hundred and twenty-one dollars and interest thereon, at the rate of ten per cent. per annum, from said August 6th, 1884, is due from defendant to this plaintiff on said warrant.

And for a separate and eighth cause of action plaintiff alleges:

1.

Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraphs 1 and 2 of the first count of this complaint to save repetition.

2.

That on the 6th day of August, 1884, said defendant, acting through its lawful agents, to wit, its board of supervisors, in its open

and regular session, made, executed, issued, and delivered to
15 A. B. Lambson its warrant or writing obligatory in the following words and figures, to wit:

"No. 19. *Apache County Warrant.* $284.00.

Road fund.

ST. JOHNS, A. T., *Aug. 6th*, 1884.

The treasurer of Apache county will pay to A. B. Lambson or order the sum of two hundred and eighty-four dollars for road work.

LUTHER MARTIN,
Chairman of Board of Supervisors.
CHAS. KINNEAR,
Clerk of Board of Supervisors."

Wherein and whereby said defendant undertook and promised to pay to said A. B. Lambson on demand said sum of money in said warrant mentioned for and on account of work done on defendant's roads by said A. B. Lambson at said defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treasurer of Apache county, and by him payment thereof was refused, and by him said warrant was duly registered for payment and endorsed as follows, to wit: "Not paid for want of funds. Presented this seventh day of August, 1884. D. Baca, treasurer; A. Ruiz, dep. treasurer,' as provided by law.

4.

That after its said issuance by said board of supervisors said warrant was endorsed M. Barth, and by said endorser for a valuable consideration sold and delivered and now belongs to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as
16 provided by law, that said treasurer was prepared to pay said warrant, plaintiff presented the same to him and demanded payment thereof, which was by him refused, and thereafter and heretofore plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of said Apache county, then and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of two hundred and eighty-four dollars and interest thereon, at the rate of ten per cent. per annum, from said August 7th, 1884, is due from defendant to this plaintiff on said warrant.

And for a separate and ninth cause of action plaintiff alleges:

1.

Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraphs 1 and 2 of the first count of this complaint to save repetition.

2.

That on the 14th day of August, 1884, said defendant, acting through its lawful agents, to wit, its board of supervisors, in its open and regular session, made, executed, issued, and delivered to John Nicholson its warrant or writing obligatory in the following words and figures, to wit:

" No. 214. *Apache County Warrant.* $58.00.

General fund.

ST. JOHNS, A. T., *Aug. 14th*, 1884.

The treasurer of Apache county will pay to John Nicholson or order the sum of fifty eight dollars for grand jury fees.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors."

17 Wherein and whereby said defendant undertook and promised to pay to said John Nicholson on demand said sum of money in said warrant mentioned for and on account of services rendered to said defendant as a grand juror by said John Nicholson at said defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treasurer of Apache county, and by him payment thereof was refused, and by him said warrant was duly registered for payment and endorsed as follows, to wit: " Not paid for want of funds. Presented Aug. 15th, 1884. D. Baca, treasurer; A. Ruiz, dep. treasurer," as provided by law.

4.

That after its said issuance by said board of supervisors said warrant was endorsed John Nicholson and Sol. Barth, and by said endorsers, for a valuable consideration, sold and delivered, and now belongs to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant, plaintiff presented the same to him and demanded payment thereof,

which was by him refused, and thereafter and heretofore plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of said Apache county, then and there being in regular and open session, and payment thereof was refused.

18 Wherefore said sum of fifty-eight dollars and interest thereon, at the rate of ten per cent. per annum, from said Aug. 15th, 1884, is due from defendant to this plaintiff on said warrant.

And for a separate and tenth cause of action plaintiff alleges:

1.

Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraphs 1 and 2 of the first count of this complaint to save repetition.

2.

That on the 8th day of October, 1884, said defendant, acting through its lawful agents, to wit, its board of supervisors, in its open and regular session, made, executed, issued, and delivered to E. D. Johnson its warrant or writing obligatory in the following words and figures, to wit:

"No. 233. *Apache County Warrant.* $96.00.

General fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to E. D. Johnson or order the sum of ninety-six dollars for carpenter work, etc., etc.

LUTHER MARTIN,
Chairman of Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors."

Wherein and whereby said defendant undertook and promised to pay to said E. D. Johnson on demand said sum of money in said warrant mentioned for and on account of work done for said defendant as a carpenter by said E. D. Johnson at said defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was pre-
19 sented for payment to and payment demanded of the county treasurer of Apache county, and by him payment thereof was refused, and by him said warrant was duly registered for payment and endorsed as follows, to wit: "Not paid for want of funds. Presented Oct. 9th, 1884. D. Baca, treasurer; Alfred Ruiz, dep. treasurer," as provided by law.

4.

That after its said issuance by said board of supervisors said warrant was endorsed E. D. Johnson & Sol. Barth, and by said en-

dorsers, for a valuable consideration, sold and delivered and now belongs to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant, plaintiff presented the same to him and demanded payment thereof, which was by him refused, and thereafter and heretofore plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of said Apache county, then and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of ninety-six dollars and interest thereon, at the rate of ten per cent. per annum, from said Oct. 9th, 1884, is due from defendant to this plaintiff on said warrant.

And for a separate and eleventh cause of action plaintiff alleges:

20 1.

Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraphs 1 and 2 of the first count of this complaint to save repetition.

2.

That on the 8th day of Oct., 1884, said defendant, acting through its lawful agents, to wit, its board of supervisors, in its open and regular session, made, executed, issued, and delivered to Thos. Perez its warrant or writing obligatory in the following words and figures, to wit:

"No. 254. *Apache County Warrant.* $900.00.

General fund.

St. Johns, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to Thos. Perez or order the sum of nine hundred dollars for sheriff.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors."

Wherein and whereby said defendant undertook and promised to pay to said Thos. Perez on demand said sum of money in said warrant mentioned for and on account of services rendered to defendant as sheriff by said Thos. Perez at said defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treasurer of

Apache county, and by him payment thereof was refused, and by him said warrant was duly register for payment and endorsed as follows, to wit: "Not paid for want of funds. Presented
21 Nov. 7th, 1884. D. Baca, treasurer; A. Ruiz, deputy treasurer," as provided by law.

4.

That after its said issuance by said board of supervisors said warrant was endorsed Thomas Perez and Sol. Barth, and by said endorsers, for a valuable consideration, sold and delivered and now belongs to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant, plaintiff presented the same to him and demanded payment thereof, which was by him refused, and thereafter and heretofore plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of said Apache county, then and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of nine hundred dollars and interest thereon, at the rate of ten per cent. per annum, from said November 7th, 1884, is due from defendant to this plaintiff on said warrant.

And for a separate and twelfth cause of action plaintiff alleges:

1.

Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraphs 1
22 and 2 of the first count of this complaint to save repetition.

2.

That on the 8th day of October, 1884, said defendant, acting through its lawful agents, to wit, its board of supervisors, in its open and regular session, made, executed, issued, and delivered to M. P. Romney its warrant or writing obligatory in the following words and figures, to wit:

"No. 239. *Apache County Warrant.* $66.00.

General fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to M. P. Romney or order the sum of sixty-six dollars for printing.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors."

Wherein and whereby said defendant undertook and promised to pay to said M. P. Romney on demand said sum of money in said warrant mentioned for and on account of printing done for said defendant by said M. P. Romney at said defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treasurer of Apache county, and by him payment was refused, and by him said warrant was duly registered for payment and endorsed as follows, to wit: "Not paid for want of funds. Presented Oct. 8th, 1884. D. Baca, treasurer, by Rosatio Calamo," as provided by law.

4.

That after its said issuance by said board of supervisors said warrant was endorsed M. P. Romney and Sol. Barth, and
23 by said endorsers, for a valuable consideration, sold and delivered and now belongs to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant, plaintiff presented the same to him and demanded payment thereof, which was by him refused, and thereafter and heretofore plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of said Apache county, then and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of sixty-six dollars and interest thereon, at the rate of ten per cent. per annum, from said 8th of October, 1884, is due from defendant to this plaintiff on said warrant.

And for a separate and thirteenth cause of action plaintiff alleges:

1.

Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraphs 1 and 2 of the first count of this complaint to save repetition.

2.

That on the 8th day of October, 1884, said defendant, acting through its lawful agents, to wit, its board of supervisors, in its open and regular session, made, executed, issued, and delivered to Sol. Barth its warrant or writing obligatory in the following words and figures, to wit:

"No. 222. *Apache County Warrant.* $392.00.

24 General fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to Sol. Barth or order the sum of three hundred and ninety-two dollars for mdse. for poor, etc.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors."

Wherein and whereby said defendant undertook and promised to pay to said Sol. Barth on demand said sum of money in said warrant mentioned for and on account of merchandise furnished the poor of defendant by said Sol. Barth at said defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treasurer of Apache county, and by him payment thereof was refused, and by him said warrant was duly registered for payment and endorsed as follows, to wit: "Not paid for want of funds. Presented November 6th, 1884. D. Baca, treasurer; A. Ruiz, dep.," as provided by law.

4.

That after its said issuance by said board of supervisors said warrant was endorsed Sol. Barth, and by said endorser, for a valuable consideration, sold and delivered and now belongs to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant,
25 plaintiff presented the same to him and demanded payment thereof, which was by him refused, and thereafter and heretofore plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of said Apache county, then and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of three hundred and ninety-two dollars and interest thereon, at the rate of ten per cent. per annum, from said November 6th, 1884, is due from defendant to this plaintiff on said warrant.

And for a separate and 14th cause of action plaintiff alleges:

1.

Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraphs 1 and 2 of the first count of this complaint to save repetition.

2.

That on the 8th day of October, 1884, said defendant, acting through its lawful agents, to wit, its board of supervisors, in its open and regular session, made, executed, issued, and delivered to Sol. Barth its warrant or writing obligatory in the following words and figures, to wit:

"No. 232. *Apache County Warrant.* $330.00.

General fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to Sol. Barth or order the sum of three hundred and thirty dollars for mdse. for county, etc.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk of Board of Supervisors."

Wherein and whereby said defendant undertook and promised to pay to said Sol. Barth, on demand, said sum of money in
26 said warrant mentioned for and on account of merchandise furnished to said defendant by said Sol. Barth at said defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treasurer of Apache county, and by him payment thereof was refused, and by him said warrant was duly registered for payment and endorsed as follows, to wit: "Not paid for want of funds. Presented November 7th, 1884. D. Baca, treasurer; A. Ruiz, dep. treasurer," as provided by law.

4.

That after its said issuance by said board of supervisors said warrant was endorsed Sol. Barth and by said endorser, for a valuable consideration, sold and delivered and belongs now to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant, plaintiff presented the same to him and demanded payment thereof, which was by him refused, and thereafter and heretofore plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of said Apache county, then and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of $330.00 and interest thereon, at the rate

of ten per cent. per annum, from said 7th of November, 1884,
27 is due from defendant to this plaintiff on said warrant.

And for a separate and 15th cause of action plaintiff alleges:

1.

Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraphs 1 and 2 of the first count of this complaint to save repetition.

2.

That on the 8th day of October, 1884, said defendant, acting through its lawful agents, to wit, its board of supervisors, in its open and regular session, made, executed, issued, and delivered to John T. Hogne its warrant or writing obligatory in the following words and figures, to wit:

"No. 236. *Apache County Warrants.* $13.25.

General fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to John T. Hogne or order the sum of thirteen dollars and twenty-five cents for —.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors."

Wherein and whereby said defendant undertook and promised to pay to said John T. Hogne on demand said sum of money in said warrant mentioned for and on account of certain services rendered to said defendant and labor performed for it by said John T. Hogne at said defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment was demanded of the county
28 treasurer of Apache county, and by him payment thereof was refused, and by him said warrant was duly registered for payment and endorsed as follows, to wit: "Not paid for want of funds. Presented Oct. 8th, 1884. D. Baca, treasurer; A. Ruiz, dep. treasurer," as provided by law.

4.

That after its said issuance by said board of supervisors said warrant was endorsed John T. Hogne and Sol. Barth, and by said endorsers, for a valuable consideration, sold and delivered and now belongs to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant plaintiff presented same to him and demanded payment thereof, which was by him refused, and thereafter and heretofore plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of said Apache county, then and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of $13.25 and interest thereon, at the rate of ten per cent. per annum, from said October 8th, 1884, is due from defendant to this plaintiff on said warrant.

And for a separate and 16th cause of action plaintiff alleges:

1.

29 Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraphs 1 and 2 of the first count of this complaint to save repetition.

2.

That on the 8th day of October, 1884, said defendant, acting through its lawful agents, to wit, its board of supervisors, in its open and regular session, made, executed, issued, and delivered to Chas. Kinnear its warrant or writing obligatory in the following words and figures, to wit:

"No. 245. *Apache County Warrant.* $187.00.

General fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to Chas. Kinnear or order the sum of one hundred and eighty-seven dollars for books, etc., etc.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors."

Wherein and whereby said defendant undertook and promised to pay to said Chas. Kinnear on demand said sum of money in said warrant mentioned for and on account of books furnished to said defendant by said Chas. Kinnear at said defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treasurer of Apache county, and by him payment thereof was refused, and by him said warrant was duly registered for payment and endorsed as

follows, to wit: "Not paid for want of funds. Presented Oct. 8th, 1884. D. Baca, treasurer; Alfred Ruiz, dep. treasurer," as
30 provided by law.

4.

That after its said issuance by said board of supervisors said warrant was endorsed Chas. Kinnear and Sol. Barth, and by said endorser-, for a valuable consideration, sold and delivered and now belongs to this plaintiff, of which defendant had due notice.

5.

That after said treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant, plaintiff presented the same to him and demanded payment thereof, which was by him refused, and thereafter and heretofore plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of said Apache county, then and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of $187.00 and interest thereon, at the rate of ten per cent. per annum, from said October 8th, 1884, is due from defendant to this plaintiff on said warrant.

And for a separate and 17th cause of action plaintiff alleges:

1.

Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraphs 1 and 2 of the first count of this complaint to save repetition.

2.

That on the 8th day of October, 1884, said defendant,
31 acting through its lawful agents, to wit, its board of supervisors, in its open and regular session, made, executed, issued, and delivered to A. Gonzales its warrant or writing obligatory in the following words and figures, to wit:

"No. 238. *Apache County Warrant.* $98.00.

General fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to A. Gonzales or order the sum of ninety-eight dollars for lumber.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors."

Wherein and whereby said defendant undertook and promised to pay to said A. Gonzales, on demand, said sum of money in said

warrant mentioned for and on account of lumber furnished to said defendant by said A. Gonzales at said defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treasurer of Apache county, and by him payment thereof was refused, and by him said warrant was duly registered for payment and endorsed as follows, to wit: "Not paid for want of funds. Presented Oct. 9th, 1884. D. Baca, treasurer; A. Ruiz, dep. treasurer," as provided by law.

4.

That after its said issuance by said board of supervisors said warrant was endorsed Antonio Gonzales and Sol. Barth, and by said endorsers, for a valuable consideration, sold and delivered
32 and now belongs to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant, plaintiff presented the same to him and demanded payment thereof, which was by him refused, and thereafter and heretofore plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of said Apache county, then and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of $98 and $\frac{00}{100}$ and interest thereon, at the rate of ten per cent. per annum, from said 9th day of October, 1884, is due from said defendant to this plaintiff on said warrant.

And for a separate and 18th cause of action plaintiff alleges:

1.

Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraph 1 and 2 of the first count of this complaint to save repetition.

2.

That on the 8th day of October, 1884, said defendant, acting through its lawful agents, to wit, its board of supervisors, in its open and regular session, made, executed, issued, and delivered to A. D. McIntosh its warrant or writing obligatory in the following words and figures, to wit:

"No. 29. *Apache County Warrant.* $30.00.

Road fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

33 The treasurer of Apache county will pay to A. D. McIntosh or order the sum of thirty dollars for road-work.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors."

Wherein and whereby said defendant undertook and promised to pay to said A. D. McIntosh on demand said sum of money in said warrant mentioned for and on account of work done on defendant's roads by said A. D. McIntosh at said defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treasurer of Apache county, and by him payment thereof was refused, and by him said warrant was duly registered for payment and endorsed as follows, to wit: "Not paid for want of funds. Oct. 8th, 1884. D. Baca, treasurer; A. Ruiz, dept.," as provided by law.

4.

That after its said issuance by said board of supervisors said warrant was endorsed A. D. McIntosh and M. Barth, and by said endorsers, for a valuable consideration, sold and delivered and now belongs to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant, plaintiff presented the same to him and demanded payment
34 thereof, which was by him refused, and thereafter and heretofore plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of said Apache county, then and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of thirty dollars and interest thereon, at the rate of ten per cent. per annum, from said 8th of October, 1884, is due from defendant to this plaintiff on said warrant.

And for a separate and 19th cause of action plaintiff alleges:

1.

Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraphs 1 and 2 of the first count of this complaint to save repetition.

2.

That on the 8th day of October, 1884, said defendant, acting through its lawful agents, to wit, its board of supervisors, in its open and regular session, made, executed, issued, and delivered to William Lewis its warrant or writing obligatory in the following words and figures, to wit:

"No. 31. *Apache County Warrant.* $400.00.

Road fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to William Lewis or order the sum of four hundred dollars for road-work.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors."

Wherein and whereby said defendant undertook and promised to pay to said William Lewis, on demand, said sum of money
35 in said warrant mentioned for and on account of work done on defendant's roads by said William Lewis at said defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treasurer of Apache county, and by him payment thereof was refused, and by him said warrant was duly registered for payment and endorsed as follows, to wit: "Not paid for want of funds. October 8th, 1884. D. Baca, treasurer; Alfred Ruiz, deputy," as provided by law.

4.

That after its said issuance by said board of supervisors said warrant was endorsed William Lewis and Sol. Barth, and by said endorsers, for a valuable consideration, sold and delivered and now belongs to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant, plaintiff presented the same to him and demanded payment thereof, which was by him refused, and thereafter and heretofore plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of said Apache county, then and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of $400.00 and interest thereon, at the
36 rate of ten per cent. per annum, from said 8th day of October, 1884, is due from defendant to this plaintiff on said warrant.

And for a separate and 20th cause of action plaintiff alleges:

1.

Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraph- 1 and 2 of the first count of this complaint to save repetition.

2.

That on the 8th day of October, 1884, said defendant, acting through its lawful agents, to wit, its board of supervisors, in its open and regular session, made, executed, issued, and delivered to Wm. M. Rudd its warrant or writing obligatory in the following words and figures, to wit:

"No. 258. *Apache County Warrant.* $174.00.

General fund.

St. Johns, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to Wm. M. Rudd or order the sum of one hundred and seventy-four dollars for dist. att'y.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors."

Wherein and whereby said defendant undertook and promised to pay to said Wm. M. Rudd on demand said sum of money in said warrant mentioned for and on account of services rendered to said defendant as its district attorney by said William M. Rudd at said defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treas-
37 urer of Apache county, and by him payment thereof was refused, and by him said warrant was duly registered for payment and endorsed as follows, to wit: "Not paid for want of funds. Presented Oct. 9th, 1884. D. Baca, treasurer; Alfred Ruiz, dept.," as provided by law.

4.

That after its said issuance by said board of supervisors said warrant was endorsed Wm. M. Rudd and Sol. Barth, and by said endorsers, for a valuable consideration, sold and delivered and now belongs to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant plaintiff presented the same to him and demanded payment thereof,

which was by him refused, and thereafter and heretofore plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of said Apache county, then and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of one hundred and seventy-four dollars and interest thereon, at the rate of ten per cent. per annum, from said 9th day of October, 1884, is due from defendant to this plaintiff.

And for a separate and 21st cause of action plaintiff alleges:

1.

Plaintiff adopts as true and only omits to set out at length
38 in this cause of action all of the allegations of paragraphs 1 and 2 of the first count of this complaint to save repetition.

2.

That on the 9th day of October, 1884, said defendant, acting through its lawful agents, to wit, its board of supervisors, in its open and regular session, made, executed, issued, and delivered to J. T. Hogne its warrant or writing obligatory in the following words and figures, to wit:

"No. 261. *Apache County Warrant.* $25.00.

General fund.

ST. JOHNS, A. T., *Oct. 9th*, 1884.

The treasurer of Apache county will pay to J. T. Hogne or order the sum of twenty-five dollars for registering.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors."

Wherein and whereby said defendant undertook and promised to pay to said J. T. Hogne on demand said sum of money in said warrant mentioned for and on account of registering voters for said defendant by said J. T. Hogne at said defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treasurer of Apache county, and by him payment thereof was refused, and by him said warrant was duly registered for payment and endorsed as follows, to wit: "Not paid for want of funds. October 9th, 1884. Dionicio Baca, treasurer, per Rosatio Calamo, D. P.," as provided by law.

39 4.

That after its said issuance by said board of supervisors said warrant was endorsed J. T. Hogne and Sol. Barth, and by said endorsers, for a valuable consideration, sold and delivered and now belongs to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant plaintiff presented the same to him and demanded payment thereof, which was by him refused, and thereafter and heretofore plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of said Apache county, then and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of twenty-five dollars ($25.00) and interest thereon, at the rate of ten per cent. per annum, from said October 9th, 1884, is due from defendant to this plaintiff.

And for a separate and 22nd cause of action plaintiff alleges:

1.

Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraphs 1 and 2 of the first count of this complaint to save repetition.

2.

That on the 9th day of October, 1884, said defendant, acting through its lawful agents, to wit, its board of supervisors, in
40 its regular and open session, made, executed, issued, and delivered to Thos. Perez its warrant or writing obligatory in the following words and figures, to wit:

"No. 263. *Apache County Warrant.* $500.00.

General fund.

ST. JOHNS, A. T., *Oct. 9th*, 1884.

The treasurer of Apache county will pay to Thos. Perez or order the sum of five hundred dollars for services as sheriff.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors."

Wherein and whereby said defendant undertook and promised to pay to said Thos. Perez on demand said sum of money in said warrant mentioned for and on account of services rendered to said defendant as its sheriff by said Thos. Perez at said defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treasurer of Apache county, and by him payment thereof was refused, and by him said warrant was duly registered for payment and endorsed as follows, to wit: "Not paid for want of funds. Dec. 31st, 1884. D. Baca, treasurer; Alfred Ruiz, dept. treasurer," as provided by law.

4.

That after its said issuance by said board of supervisors said warrant was endorsed Thomas Perez, and by said endorser, for a valuable consideration, sold and delivered and now belongs to this plaintiff, of which defendant had due notice.

5.

41 That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant, plaintiff presented the same to him and demanded payment thereof, which was by him refused, and thereafter and heretofore plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of said Apache county, then and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of $500.00 and interest thereon, at the rate of ten per cent. per annum, from said December 31st, 1884, is due from defendant to this plaintiff on said warrant.

And for a separate and 23rd cause of action plaintiff alleges:

1.

Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraph 1 and 2 of the first count of this complaint to save repetition.

2.

That on the 9th day of October, 1884, said defendant, acting through its lawful agents, to wit, its board of supervisors, in its open and regular session, made, executed, issued, and delivered to Wm. M. Rudd its warrant or writing obligatory in the following words and figures, to wit:

"No. 264. *Apache County Warrant.* $450.00.

General fund.

ST. JOHNS, A. T., *Oct. 9th*, 1884.

The treasurer of Apache county will pay to Wm. Rudd or order the sum of four hundred and fifty dollars for dist. att'y.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors."

42 Wherein and whereby said defendant undertook and promised to pay to said Wm. M. Rudd on demand said sum of money in said warrant mentioned for and on account of services rendered to said defendant as its district attorney by said Wm. M. Rudd at said defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treasurer of Apache county, and by him payment thereof was refused, and by him said warrant was duly registered for payment and endorsed as follows, to wit: "Not paid for want of funds. Dec. 31st, '84. D. Baca, treasurer; Alfred Ruiz, dept. treasurer," as provided by law.

4.

That after its said issuance by said board of supervisors said warrant was endorsed Wm. M. Rudd & Sol. Barth, and by said endorsers, for a valuable consideration, sold and delivered and now belongs to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant, plaintiff presented the same to him and demanded payment thereof, which was by him refused, and thereafter and heretofore plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of said Apache county, then
43 and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of $450.00 and interest thereon, at the rate of ten per cent. per annum, from said December 31st, 1884, is due from defendant to this plaintiff on said warrant.

And for a separate and 24th cause of action plaintiff alleges:

1.

Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraphs 1 and 2 of the first count of this complaint to save repetition.

2.

That on the 12th day of August, 1884, said defendant, acting through its lawful agents, to wit, its board of supervisors, in its open and regular session, made, executed, issued, and delivered to W. W. Berry its warrant or writing obligatory in the following words and figures, to wit:

"No. 166. *Apache County Warrant.* $58.00.

General fund.

ST. JOHNS, A. T., *Aug. 12th*, 1884.

The treasurer of Apache county will pay to W. W. Berry or order the sum of fifty-eight dollars for grand jury fees.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors."

Wherein and whereby said defendant undertook and promised to pay to said W. W. Berry on demand said sum of money in said warrant mentioned for and on account of services rendered to said defendant as a grand jury by said W. W. Berry at said defendant's special instance and request.

44 3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treasurer of Apache county, and by him payment thereof was refused, and by him said warrant was duly registered for payment and endorsed as follows, to wit: "Not paid for want of funds. Presented August 15th, 1884. D. Baca, treasurer; A. Ruiz, deputy," as provided by law.

4.

That after its said issuance by said board of supervisors said warrant was endorsed W. W. Berry & Sol. Barth, and by said endorsers, for a valuable consideration, sold and delivered and now belongs to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant, plaintiff presented the same to him and demanded payment thereof, which was by him refused, and thereafter and heretofore plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of said Apache county, then and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of $58.00 and interest thereon, at the rate of ten per cent. per annum, from said August 15th, 1884, is due from defendant to this plaintiff on said warrant.

45 And for a separate and 25th cause of action plaintiff alleges:

1.

Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraphs 1 and 2 of the first count of this complaint to save repetition.

2.

That on the 31st day of December, 1884, said defendant, acting through its lawful agents, to wit, its board of supervisors, in its open and regular session, made, executed, issued, and delivered to Sol. Barth its warrant or writing obligatory in the following words and figures, to wit:

"No. 311. *Apache County Warrant.* $91.50.

General fund.

St. Johns, A. T., *Dec. 31st*, 1884.

The treasurer of Apache county will pay to Sol. Barth or order the sum of ninety-one dollars and $\frac{50}{100}$ for mdse.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors."

Wherein and whereby said defendant undertook and promised to pay to Sol. Barth on demand the sum of money in said warrant mentioned for and on account of merchandise furnished defendant by said Sol. Barth at said defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treasurer of Apache county, and by him payment thereof was refused,
46 and by him said warrant was duly registered for payment and endorsed as follows, to wit: "Not paid for want of funds. Presented Dec. 31st, 1884. D. Baca, treasurer; A. Ruiz, deputy," as provided by law.

4.

That after its said issuance by said board of supervisors said warrant was endorsed Sol. Barth, and by said endorser, for a valuable consideration, sold and delivered and now belongs to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant, plaintiff presented the same to him and demanded payment thereof, which was by him refused, and thereafter and heretofore plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of said Apache county, then and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of ninety-one dollars and $\frac{50}{100}$ and interest thereon, at the rate of ten per cent. per annum, from said December 31st, 1884, is due from defendant to this plaintiff on said warrant.

And for a separate and 26th cause of action plaintiff alleges:

1.

Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraphs 1 and
47 2 of the first count of this complaint to save repetition.

2.

That on the 31st day of December, 1884, said defendant, acting through its lawful agents, to wit, its board of supervisors, in its open and regular session, made, executed, issued, and delivered to Thos. Perez its warrant or writing obligatory in the following words and figures, to wit:

"No. 325. *Apache County Warrant.* $800.00.

General fund.

St. Johns, A. T., *Dec. 31st*, 1884.

The treasurer of Apache county will pay to Thos. Perez or order the sum of eight hundred dollars for services as sheriff.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors."

Wherein and whereby said defendant undertook and promised to pay to said Thomas Perez on demand said sum of money in said warrant mentioned for and on account of services rendered to defendant as its sheriff by said Thos. Perez at said defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treasurer of Apache county, and by him payment thereof was refused, and by him said warrant was duly registered for payment and endorsed as follows, to wit: "Not paid for want of funds. Dec. 31st, '84. D. Baca, treasurer; Alfred Ruiz, dpt. treasurer," as provided by law.

48 4.

That after its said issuance by said board of supervisors said warrant was endorsed Thomas Perez and Sol. Barth, and by said endorsers, for a valuable consideration, sold and delivered and now belongs to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant, plaintiff presented the same to him and demanded payment thereof, which was by him refused, and thereafter and heretofore plaintiff presented the same for payment to and demanded payment thereof

from said board of supervisors of said Apache county, then and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of eight hundred dollars ($800.00) and interest thereon, at the rate of ten per cent. per annum, from said December 31st, 1884, is due from defendant to this plaintiff on said warrant.

And for a separate and 27th cause of action plaintiff alleges:

1.

Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraphs 1 and 2 of the first count of this complaint to save repetition.

2.

That on the 31st day of December, 1884, said defendant,
49 acting through its lawful agents, to wit, its board of supervisors, in its open and regular session, made, executed, issued, and delivered to N. Barth its warrant or writing obligatory in the following words and figures, to wit:

"No. 324. *Apache County Warrant.* $20.00.

General fund.

ST. JOHNS, A. T., *Dec. 31st*, 1884.

The treasurer of Apache county will pay to N. Barth or order the sum of twenty dollars for election expenses.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors."

Wherein and whereby said defendant undertook and promised to pay to said N. Barth on demand said sum of money in said warrant mentioned for and on account of expenses incurred at election and money paid out in said Apache county by said N. Barth at said defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treasurer of Apache county, and by him payment thereof was refused, and by him said warrant was duly registered for payment and endorsed as follows, to wit: "Not paid for want of funds. Presented Dec. 31st, 1884. D. Baca, treasurer; A. Ruiz, deputy," as provided by law.

4.

That after its issuance by said board of supervisors said warrant was endorsed Nathan Barth and Sol. Barth, and by said endorsers,

for a valuable consideration, sold and delivered and now
50 belongs to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant, plaintiff presented the same to him and demanded payment thereof, which was by him refused, and thereafter and heretofore plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of said Apache county, then and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of twenty dollars ($20.00) and interest thereon, at the rate of ten per cent. per annum, from said December 31st, 1884, is due from defendant to this plaintiff on said warrant.

And for a separate and 28th cause of action plaintiff alleges:

1.

Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraphs 1 and 2 of the first count of this complaint to save repetition.

2.

That on the 31st day of December, 1884, said defendant, acting through its lawful agents, to wit, its board of supervisors, in its open and regular session, made, executed, issued, and delivered to Sol. Barth its warrant or writing obligatory in the following words and figures, to wit:

"No. 273. *Apache County Warrant.* $135.00.

General fund.

ST. JOHNS, A. T., *Dec.* 31*st*, 1884.

51 The treasurer of Apache county will pay to Sol. Barth or order the sum of one hundred and thirty-five dollars for mdse. for the county poor.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors."

Wherein and whereby said defendant undertook and promised to pay to said Sol. Barth on demand said sum of money in said warrant mentioned for and on account of merchandise furnished to the poor of said defendant by said Sol. Barth at said defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treasurer of

Apache county, and by him payment thereof was refused, and by him said warrant was duly registered for payment and endorsed as follows, to wit: "Not paid for want of funds. Presented Dec. 31st, 1884. D. Baca, treasurer; A. Ruiz, deputy," as provided by law.

4.

That after its said issuance by said board of supervisors said warrant was endorsed Sol. Barth, and by said endorser, for a valuable consideration, sold and delivered and now belongs to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant, plaintiff presented the same to him and demanded payment
52 thereof, which was by him refused, and thereafter and heretofore plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of said Apache county, then and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of one hundred and thirty-five dollars and interest thereon, at the rate of ten per cent. per annum, from said December 31st, 1884, is due from defendant to this plaintiff on said warrant.

And for a separate and 29th cause of action plaintiff alleges:

1.

Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraphs 1 and 2 of the first count of this complaint to save repetition.

2.

That on the 31st day of December, 1884, said defendant, acting through its lawful agents, to wit, its board of supervisors, in its open and regular session, made, executed, issued, and delivered to Art. McDonald its warrant or writing obligatory in the following words and figures, to wit:

"No. 200. *Apache County Warrant.* $129.50.

General fund.

St. Johns, A. T., *Dec. 31st*, 1884.

The treasurer of Apache county will pay to Art. McDonald or order the sum of one hundred and twenty-nine & $\frac{50}{100}$ dollars for justice of the peace.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors."

Wherein and whereby said defendant undertook and promised to pay to said Art. McDonald on demand said sum of money
53 in said warrant mentioned for and on account of services rendered to defendant as a justice of the peace by said Art. McDonald at said defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treasurer of Apache county, and by him payment thereof was refused, and by him said warrant was duly registered for payment and endorsed as follows, to wit: "Not paid for want of funds. Presented Dec. 31st, 1884. D. Baca, treasurer; A. Ruiz, deputy," as provided by law.

4.

That after its said issuance by said board of supervisors said warrant was endorsed Art. McDonald, and by said endorser, for a valuable consideration, sold and delivered and now belongs to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant, plaintiff presented the same to him and demanded payment thereof, which was by him refused, and thereafter and heretofore plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of said Apache county, then and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of $129.50 and interest thereon, at the rate of ten per cent. per annum, from said December 31st, 1884, is due from said defendant to this plaintiff on said warrant.

54 And for a separate and 30th cause of action plaintiff alleges:

1.

Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraphs 1 and 2 of the first count of this complaint to save repetition.

2.

That on the 31st day of December, 1884, said defendant, acting through its lawful agents, to wit, its board of supervisors, in its open and regular session, made, executed, issued, and delivered to Thos. Perez its warrant or writing obligatory in the following words and figures, to wit:

" No. 328. *Apache County Warrant.* $500.00.

General fund.

ST. JOHNS, A. T., *Dec.* 31*st*, 1884.

The treasurer of Apache county will pay to Thos. Perez or order the sum of five hundred dollars for sheriff.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk of Board of Supervisors."

Wherein and whereby said defendant undertook and promised to pay to said Thos. Perez on demand said sum of money in said warrant mentioned for and on account of services rendered to said defendant as its sheriff by said Thos. Perez at said defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treasurer of Apache county, and by him payment thereof was refused, and by him said warrant was duly registered for payment and endorsed as follows, to wit: " Not paid for want of funds. December 31st, '84. D. Baca, treasurer; A. Ruiz, deputy treasurer," as provided by law.

4.

That after its said issuance by said board of supervisors said warrant was endorsed Thomas Perez & Sol. Barth, and by said endorsers, for a valuable consideration, sold and delivered and now belongs to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant, plaintiff presented the same to him and demanded payment thereof, which was by him refused, and thereafter and heretofore plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of said Apache county, then and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of $500 and interest thereon, at the rate of ten per cent. per annum, from said December 31st, 1884, is due from defendant to this plaintiff on said warrant.

And for a separate and 31st cause of action plaintiff alleges

1.

Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraphs 1 and 2 of the first count of this complaint to save repetition.

56 2.

That on the 31st day of December, 1884, said defendant, acting through its lawful agents, to wit, its board of supervisors, in its open and regular session, made, executed, issued, and delivered to E. C. Bunch its warrant or writing obligatory in the following words and figures, to wit:

"No. 326. *Apache County Warrant.* $325.00.

General fund.

ST. JOHNS, A. T., *Dec. 31st*, 1884.

The treasurer of Apache county will pay to E. C. Bunch or order the sum of three hundred and twenty-five dollars for services as probate judge.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors."

Wherein and whereby said defendant undertook and promised to pay to said E. C. Bunch on demand said sum of money in said warrant mentioned for and on account of services rendered to said defendant as its probate judge by said E. C. Bunch at said defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treasurer of Apache county, and by him payment thereof was refused, and by him said warrant was duly registered for payment and endorsed as follows, to wit: "Not paid for want of funds. December 31st, 1884. D. Baca, treasurer; Alfred Ruiz, dept. treasurer," as provided by law.

4.

That after its said issuance by said board of supervisors said warrant was endorsed E. C. Bunch and Sol. Barth, and by
57 said endorsers, for a valuable consideration, sold and delivered and now belongs to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant, plaintiff presented the same to him and demanded payment thereof, which was by him refused, and thereafter and heretofore plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of said Apache county, then and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of three hundred and twenty-five dollars

and interest thereon, at the rate of ten per cent. per annum, from said December 31st, 1881, is due from defendant to this plaintiff on said warrant.

And for a separate and 32nd cause of action plaintiff alleges:

1.

Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraphs 1 and 2 of the first count of this complaint to save repetition.

2.

That on the 31st day of December, 1881, said defendant, acting through its lawful agents, to wit, its board of supervisors, in its open and regular session, made, executed, issued, and delivered to Sol. Barth its warrant or writing obligatory in the following words and figures, to wit:

58 "No. 222. *Apache County Warrant.* $180.00.

General fund.

St. Johns, A. T., *Dec. 31st*, 1881.

The treasurer of Apache county will pay to Sol. Barth or order the sum of one hundred and eighty $\frac{00}{100}$ dollars for merchandise for the county poor.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors."

Wherein and whereby said defendant undertook and promised to pay to said Sol. Barth on demand said sum of money in said warrant mentioned for and on account of merchandise furnished to the poor of said defendant by said Sol. Barth at said defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treasurer of Apache county, and by him payment thereof was refused, and by him said warrant was duly registered for payment and endorsed as follows, to wit: "Not paid for want of funds. Presented Dec. 31st, 1884. D. Baca, treasurer; A. Ruiz, deputy," as provided by law.

4.

That after its said issuance by said board of supervisors said warrant was endorsed Sol. Barth, and by said endorser, for a valuable consideration, sold and delivered and now belongs to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant,
59 plaintiff presented the same to him and demanded payment thereof, which was by him refused, and thereafter and heretofore plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of said Apache county, then and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of $180.00 *dollars* and interest thereon, at the rate of ten per cent. per annum, from said December 31st, 1884, is due from defendant to this plaintiff on said warrant.

And for a separate and 33rd cause of action plaintiff alleges:

1.

Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraph one and two of the first count of this complaint to save repetition.

2.

That on the 31st day of December, 1884, said defendant, acting through its lawful agents, to wit, its board of supervisors, in its open and regular session, made, executed, issued, and delivered to A. Abeita its warrant or writing obligatory in the following words and figures, to wit:

"No. 300. *Apache County Warrant.* $45.00.

General fund.

ST. JOHNS, A. T., *December 31st*, 1884.

The treasurer of Apache county will pay to A. Abeita or order the sum of forty-five $\frac{00}{100}$ dollars for services as constable.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors."

Wherein and whereby said defendant undertook and promised to pay to said A. Abeita on demand said sum of money in said
60 warrant mentioned for and on account of services rendered to said defendant as a constable by said A. Abeita at said defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treasurer of Apache county, and by him payment thereof was refused, and by him said warrant was duly registered for payment and endorsed as follows, to wit: "Not paid for want of funds. Presented December

31st, 1884. D. Baca, treasurer; A. Ruiz, deputy," as provided by law.

4.

That after its said issuance by said board of supervisors said warrant was endorsed A. Abeita and by said endorser, for a valuable consideration, sold and delivered and now belongs to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant, plaintiff presented the same to him and demanded payment thereof, which was by him refused, and thereafter and heretofore plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of said Apache county, then and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of forty-five dollars ($45.00) and interest thereon, at the rate of ten per cent. per annum, from said December 31st, 1884, is due from defendant to this plaintiff on
61 said warrant.

And for a separate and 34th cause of action plaintiff alleges:

1.

Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraphs 1 and 2 of the first count of this complaint to save repetition.

2.

That on the 31st day of December, 1884, said defendant, acting through its lawful agents, to wit, its board of supervisors, in its open and regular session, made, executed, issued, and delivered to A. D. McIntosh its warrant or writing obligatory in the following words and figures, to wit:

"No. 32. *Apache County Warrant.* $121.00.

Road fund.

St. Johns, A. T., *Dec.* 31*st*, 1884.

The treasurer of Apache county will pay to A. D. McIntosh or order the sum of one hundred and twenty-one dollars for road work.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors."

Wherein and whereby said defendant undertook and promised to pay to said A. D. McIntosh on demand said sum of money in said

warrant mentioned for and on account of services rendered defendant by working on its roads by said A. D. McIntosh at said defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treasurer of Apache county, and by him payment thereof was re-
62 fused, and by him said warrant was duly registered for payment and endorsed as follows, to wit: "Not paid for want of funds. Presented December 31st, 1884. D. Baca, treasurer; A. Ruiz, deputy," as provided by law.

4.

That after its said issuance by said board of supervisors said warrant was endorsed A. D. McIntosh, and by said endorser, for a valuable consideration, sold and delivered and now belongs to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant, plaintiff presented the same to him and demanded payment thereof, which was by him refused, and thereafter and heretofore plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of said Apache county, then and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of one hundred and twenty-one dollars ($121.00) and interest thereon, at the rate of ten per cent. per annum, from said December 31st, 1884, is due from defendant to this plaintiff on said warrant.

And for a separate and 35th cause of action plaintiff alleges:

1.

Plaintiff adopts as true and only omits to set out at length
63 in this cause of action all of the allegations of paragraphs 1 and 2 of the first count of this complaint to save repetition.

2.

That on the 31st day of December, 1884, said defendant, acting through its lawful agents, to wit, its board of supervisors, in its open and regular session, made, executed, issued, and delivered to B. Lopez its warrant or writing obligatory in the following words and figures, to wit:

"No. 321. *Apache County Warrant.* $198.00.

General fund.

ST. JOHNS, A. T., *Dec.* 31*st*, 1884.

The treasurer of Apache county will pay to B. Lopez or order the sum of one hundred and ninety-eight $\frac{00}{100}$ dollars for board of the poor.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors."

Wherein and whereby said defendant undertook and promised to pay to said B. Lopez on demand said sum of money in said warrant mentioned for and on account of board furnished to defendant's poor by said B. Lopez at said defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treasurer of Apache county, and by him payment thereof was refused, and by him said warrant was duly registered for payment and endorsed as follows, to wit: "Not paid for want of funds. Presented December 31st, 1884. Dionicio Baca, treasurer," as provided by law.

4.

That after its said issuance by said board of supervisors said warrant was endorsed Benigno Lopez and by said endorser, for
64 a valuable consideration, sold and delivered and now belongs to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant, plaintiff presented the same to him and demanded payment thereof, which was by him refused, and thereafter and heretofore plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of said Apache county, then and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of one hundred and ninety-eight dollars ($198.00) and interest thereon, at the rate of ten per cent. per annum, from said December 31st, 1884, is due from defendant to this plaintiff on said warrant.

And for a separate and 36th cause of action plaintiff alleges:

1.

Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraphs 1 and 2 of the first count of this complaint to save repetition.

2.

That on the 31st day of December, 1884, said defendant, acting through its lawful agents, to wit, its board of supervisors, in its open and regular session, made, executed, issued, and delivered to Roman Lopez its warrant or writing obligatory in the following words and figures, to wit:

" No. 266. *Apache County Warrant.* $140.00.

General fund.

65 ST. JOHNS, A. T., *December* 31*st*, 1884.

The treasurer of Apache county will pay to Roman Lopez or order the sum of one hundred and forty dollars for services as supervisor.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors."

Wherein and whereby said defendant undertook and promised to pay to said Roman Lopez on demand said sum of money in said warrant mentioned for and on account of services rendered to defendant as one of its supervisors by said Roman Lopez at said defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treasurer of Apache county, and by him payment thereof was refused, and by him said warrant was duly registered for payment and endorsed as follows, to wit: "Not paid for want of funds. Dec. 31st, 1884. Dionicio Baca, treasurer," as provided by law.

4.

That after its said issuance by said board of supervisors said warrant was endorsed Roman Lopez and by said endorser, for a valuable consideration, sold and delivered and now belongs to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant, plaintiff presented the same to him and demanded payment thereof, which was by him refused, and thereafter and heretofore
66 plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of said Apache county, then and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of $140.00 and interest thereon, at the rate of ten per cent. per annum, from said December 31st, 1884, is due from defendant to this plaintiff on said warrant.

And for a separate and 37th cause of action plaintiff alleges:

1.

Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraphs 1 and 2 of the first count of this complaint to save repetition.

2.

That on the 31st day of December, 1884, said defendant, acting through its lawful agents, to wit, its board of supervisors, in its open and regular session, made, executed, issued, and delivered to Albert Miller its warrant or writing obligatory in the following words and figures, to wit:

"No. 302. *Apache County Warrant.* $65.00.

General fund.

ST. JOHNS, A. T., *Dec. 31st*, 1884.

The treasurer of Apache county will pay to Albert Miller or order the sum of sixty-five dollars for services as constable.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors."

Wherein and whereby said defendant undertook and promised to pay to said Albert Miller on demand said sum of money in said warrant mentioned for and on account of services rendered to said defendant as constable by said Albert Miller at said
67 defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treasurer of Apache county, and by him payment thereof was refused, and by him said warrant was duly registered for payment and endorsed as follows, to wit: "Not paid for want of funds. Presented Dec. 31st, 1884. D. Baca, treasurer; A. Ruiz, deputy," as provided by law.

4.

That after its said issuance by said board of supervisors said warrant was endorsed Albert Miller, and by said endorser, for a valuable consideration, sold and delivered and now belongs to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant, plaintiff presented the same to him and demanded payment thereof, which was by him refused, and thereafter and heretofore plaintiff

presented the same to and demanded payment thereof from said board of supervisors of said Apache county, then and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of sixty five dollars ($65.00) and interest thereon, at the rate of ten per cent. per annum, from said Dec. 31st, 1884, is due from defendant to this plaintiff on said warrant.

68 And for a separate and 38th cause of action plaintiff alleges:

1.

Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraphs 1 and 2 of the first count of this complaint to save repetition.

2.

That on the 31st day of December, 1884, said defendant, acting through its lawful agents, to wit, its board of supervisors, in its open and regular session, made, executed, issued, and delivered to W. W. Wall its warrant or writing obligatory in the following words and figures, to wit:

"No. 276. *Apache County Warrant.* $175.00.

General fund.

St. Johns, A. T., *Dec. 31st*, 1884.

The treasurer of Apache county will pay to W. W. Wall or order the sum of one hundred and seventy five dollars for damages to team.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors."

Wherein and whereby said defendant undertook and promised to pay to said W. W. Wall, on demand, said sum of money in said warrant mentioned for and on account of damages done to his team by said defendant's agents with said defendant's knowledge and in said defendant's service and at its special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treasurer of Apache county, and by him payment thereof was refused,
69 and by him said warrant was duly registered for payment and endorsed as follows, to wit: "Not paid for want of funds. Presented Dec. 31st, 1884. D. Baca, treasurer; A. Ruiz, deputy," as provided by law.

4.

That after its said issuance by said board of supervisors said warrant was endorsed W. W. Wall, and by said endorser, for a val-

uable consideration, sold and delivered and now belongs to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant, plaintiff presented the same to him and demanded payment thereof, which was by him refused, and thereafter and heretofore plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of said Apache county, then and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of one hundred and seventy-five dollars ($175.00) and interest thereon, at the rate of ten per cent. per annum, from said December 31st, 1884, is due from defendant to this plaintiff on said warrant.

And for a separate and 39th cause of action plaintiff alleges:

1.

Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraphs 1 and
70 2 of the first count of this complaint to save repetition.

2.

That on the 31st day of December, 1884, said defendant, acting through its lawful agents, to wit, its board of supervisors, in its open and regular session, made, executed, issued, and delivered to B. Lopez its warrant or writing obligatory in the following words and figures, to wit:

"No. 319. *Apache County Warrant.* $27.50.

General fund.

ST. JOHNS, A. T., *December 31st*, 1884.

The treasurer of Apache county will pay to B. Lopez or order the sum of twenty-seven and $\frac{50}{100}$ dollars for election expenses.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors."

Wherein and whereby said defendant undertook and promised to pay to said B. Bopez on demand said sum of money in said warrant mentioned for and on account of expenses incurred at defendant's election by said B. Lopez at said defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treasurer of

Apache county, and by him payment thereof was refused, and by him said warrant was duly registered for payment and endorsed as follows, to wit: "Not paid for want of funds. Presented Dec. 31st, 1884. Dionicio Baca, treasurer," as provided by law.

4.

71 That after its said issuance by said board of supervisors said warrant was endorsed Benigno Lopez and Sol. Barth, and by said endorsers, for a valuable consideration, sold and delivered and now belongs to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant plaintiff presented the same to him and demanded payment thereof, which was by him refused, and thereafter and heretofore plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of said Apache county, then and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of twenty-seven dollars and fifty cents ($27.50) and interest thereon, at the rate of ten per cent. per annum, from said December 31st, 1884, is due from defendant to this plaintiff on said warrant.

And for a separate and 40th cause of action plaintiff alleges:

1.

Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraphs 1 and 2 of the first count of the complaint to save repetition.

2.

That on the 31st day of December, 1884, said defendant, acting through its lawful agents, to wit, its board of supervisors, in
72 its open and regular session, made, executed, issued, and delivered to L. Chaves its warrant or writing obligatory in the following words and figures, to wit:

"No. 320. *Apache County Warrant.* $27.50.

General fund.

ST. JOHNS, A. T., *Dec. 31st*, 1884.

The treasurer of Apache county will pay to L. Chaves or order the sum of twenty-seven & $\frac{50}{100}$ dollars for election expenses.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors."

Wherein and whereby said defendant undertook and promised to pay to said L. Chaves, on demand, said sum of money in said warrant mentioned for and on account of expenses incurred at defendant's election by said L. Chaves at said defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treasurer of Apache county, and by him payment thereof was refused, and by him said warrant was duly registered for payment and endorsed as follows, to wit: "Not paid for want of funds. Presented Dec. 31st, 1884. D. Baca, treasurer; A. Ruiz, deputy," as provided by law.

4.

That after its said issuance by said board of supervisors said warrant was endorsed Luiz Chaves and Sol. Barth, and by said endorsers, for a valuable consideration, sold and delivered and now belongs to this plaintiff, of which defendant had due notice.

73

5.

That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant, plaintiff presented the same to him and demanded payment thereof, which was by him refused, and thereafter and heretofore plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of Apache county, then and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of twenty-seven dollars and fifty cents ($27.50) and interest thereon, at the rate of ten per cent. per annum, from said December 31st, 1884, is due from defendant to this plaintiff on said warrant.

And for a separate and 11st cause of action plaintiff alleges:

1.

Plaintiff adopts as true and only omits to set out at length in this cause of action all of the allegations of paragraphs 1 and 2 of the first count of this complaint to save repetition.

2.

That on the 31st day of December, 1884, said defendant, acting through its lawful agents, to wit, its board of supervisors, in its open and regular session, made, executed, issued, and delivered to M. Barth its warrant or writing obligatory in the following words and figures, to wit:

"No. 323. *Apache County Warrant.* $20.00.

General fund.

ST. JOHNS, A. T., *Dec. 31st*, 1884.

The treasurer of Apache county will pay to M. Barth or
74 order the sum of twenty $\frac{00}{100}$ dollars for election expenses.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors."

Wherein and whereby said defendant undertook and promised to pay to said M. Barth on demand said sum of money in said warrant mentioned for and on account of expenses incurred at defendant's election by said M. Barth at said defendant's special instance and request.

3.

That thereafter, as provided by law, said warrant was presented for payment to and payment demanded of the county treasurer of Apache county, and by him payment thereof was refused, and by him said warrant was duly registered for payment and endorsed as follows, to wit: "Not paid for want of funds. Presented Dec. 31st, 1884. D. Baca, treasurer: A. Ruiz, deputy," as provided by law.

4.

That after its said issuance by said board of supervisors said warrant was endorsed M. Barth—N. Barth, administrator—and by said endorser, for a valuable consideration, sold and delivered and now belongs to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant plaintiff presented the same to him and demanded payment thereof,
which was by him refused, and thereafter and heretofore
75 plaintiff presented the same for payment to and demanded payment thereof from said board of supervisors of said Apache county, then and there being in regular and open session, and payment thereof was refused.

Wherefore said sum of twenty dollars ($20.00) and interest thereon, at the rate of ten per cent. per annum, from said Dec. 31st, 1884, is due from defendant to this plaintiff on said warrant.

That at the times of all the several publications of notices mentioned herein that the said treasurer was prepared to pay said warrants, and before the filing of this complaint there was sufficient money in the hands of said treasurer, lawfully applicable to the payment of all said warrants, to pay the same and all of them.

Wherefore plaintiff prays judgment against said defendant for $7,770.75 and interest thereon from January 1st, 1885, at the rate of ten per cent. per annum: and

2. For $69.50 & interest thereon, at ten per cent. per annum, from July 12th, 1884; &
3. For $77.50 & interest thereon, at ten per cent. per annum, from August 6th, 1884.
4. For $130.00 & interest thereon, at ten per cent. per annum, from August 6th, 1884.
5. For $137.00 & interest thereon, at ten per cent. per annum, from August 6th, 1884.
6. For $175.00 & interest thereon, at ten per cent. per annum, from August 6th, 1884.
7. For $121 00 & interest thereon, at ten per cent. per annum, from August 6th, 1884.
8. For $284.00 & interest thereon, at ten per cent. per annum, from August 7th, 1884.

76 9. For $58.00 & interest thereon, at ten per cent. per annum, from August 15th, 1884.

10. For $96.00 & interest thereon, at ten per cent. per annum, from October 9th, 1884.
11. For $900.00 & interest thereon, at ten per cent. per annum, from November 7th, 1884.
12. For $66.80 & interest thereon, at ten per cent. per annum, from October 8th, 1884.
13. For $392.00 & interest thereon, at ten per cent. per annum, from November 6th, 1884.
14. For $330.00 & interest thereon, at ten per cent. per annum, from November 7th, 1884.
15. For $13.25 & interest thereon, at ten per cent. per annum, from October 8th, 1884.
16. For $187.00 & interest thereon, at ten per cent. per annum, from October 8th, 1884.
17. For $98 00 & interest thereon, at ten per cent. per annum, from October 9th, 1884.
18. For $30.00 & interest thereon, at ten per cent. per annum, from October 8th, 1884.
19. For $400.00 & interest thereon, at ten per cent. per annum, from October 8th, 1884.
20. For $174.00 & interest thereon, at ten per cent. per annum, from October 9th, 1884.
21. For $25.00 & interest thereon, at ten per cent. per annum, from October 9th, 1884.
22. For $500.00 & interest thereon, at ten per cent. per annum, from December 31st, 1884.
23. For $450.00 & interest thereon, at ten per cent. per annum, from December 31st, 1884.

77 24. For $58.00 & interest thereon, at ten per cent. per annum, from August 15th, 1884.

25. For $91.50 & interest thereon, at ten per cent. per annum, from December 31st, 1884.
26. For $800.00 & interest thereon, at ten per cent. per annum, from December 31st, 1884.

27. For $20.00 & interest thereon, at ten per cent. per annum, from December 31st, 1884.

28. For $135.00 & interest thereon, at ten per cent. per annum, from December 31st, 1884.

29. For $129.50 & interest thereon, at ten per cent. per annum, from December 31st, 1884.

30. For $500.00 & interest thereon, at ten per cent. per annum, from December 31st, 1884.

31. For $325.00 & interest thereon, at ten per cent. per annum, from December 31st 1884.

32. For $180.00 & interest thereon, at ten per cent. per annum, from December 31st, 1884.

33. For $45.00 & interest thereon, at ten per cent. per annum, from December 31st, 1884.

34. For $121.00 & interest thereon, at ten per cent. per annum, from December 31st, 1884.

35. For $198.00 & interest thereon, at ten per cent. per annum, from December 31st, 1884.

36. For $140.00 & interest thereon, at ten per cent. per annum, from December 31st, 1884.

37. For $65.00 & interest thereon, at ten per cent. per annum, from December 31st, 1884.

78 38. For $175.00 & interest thereon, at ten per cent. per annum, from December 31st, 1884.

39. For $27.50 & interest thereon, at ten per cent. per annum, from December 31st, 1884.

40. For $27.50 & interest thereon, at ten per cent. per annum, from December 31st, 1884.

41. For $20.00 & interest thereon, at ten per cent. per annum, om December 31st, 1884.

And for costs of this suit.

BALDWIN & JOHNSON,
Attorneys for Plaintiff.

In the District Court of the Territory of Arizona for the County of Apache.

JACOB BARTH, Plaintiff,
vs.
APACHE COUNTY, Defendant. } No. 270. Summons.

Filed in dist. court of Apache Co., Sept. 19th, 1891, by J. T. Hogne, clerk. Filed in dist. co. of Coconino Co., Oct. 3rd, 1891, by E. L. Clark, clerk. Filed in dist. court of Yavapai Co., March 30th, 1896, by A. J. Herndon, clerk. Filed in dist. court of Maricopa Co., May 6th, 1896, by J. E. Walker, clerk.

Action brought in the district court in and for the county of Apache, Territory of Arizona.

79 The Territory of Arizona sends greeting to the chairman of the board of supervisors of Apache county, Arizona Territory, to wit, F. T. La Prade:

You are hereby summoned and required to appear in an action brought against you by the above-named plaintiff in the district court in and for the county of Apache, in the Territory of Arizona, and answer the complaint filed with the clerk of this court at St. Johns, in said county (a copy of which complaint accompanies this summons), within ten days (exclusive of the day of service) after the service upon you of this summons, if served in this county, but if served out of the county and within this district, then within twenty days; where personal service of a copy of the summons and complaint is made out of the Territory or service by publication is made, as provided by law, within twenty days after the completion thereof; in all other cases, thirty days.

And you are hereby notified that if you fail to appear and answer the complaint, as above required, the plaintiff will take judgment by default against you, in accordance with the prayer of his complaint in said cause filed, and costs and disbursements in this behalf expended.

Given under my hand and the seal of said court, at St. Johns, this 10th day of September, A. D. 1891.

[SEAL.] JOHN T. HOGNE, *Clerk*,
By F. W. WILSON, *Deputy*.
BALDWIN & JOHNSON,
Attorneys for Plaintiff.

80 THE TERRITORY OF ARIZONA, }
The County of Apache. }

Before the undersigned authority personally appeared P. C. Jacoby, who, after being sworn according to law, deposes and says—

That he is over twenty one years of age; that he is not interested in said suit; that he served the within summons and complaint in said case upon the chairman of the board of supervisors of Apache county, to wit, upon F. T. La Prade, by handing to him in person

a true copy of said summons and complaint, at Winslow, Apache county, Arizona Territory, on the 14th day of September, 1891.

P. C. JACOBY.

Sworn to and subscribed to before me this the 14th day of September, 1891.

CHAS. L. FLINN,

[SEAL.] *Notary Public for said County & Territory.*

In the District Court of the Fourth Judicial District in and for the County of Apache, Arizona.

JACOB BARTH, Plaintiff, *vs.* APACHE COUNTY, Defendant. } Demurrer and Answer.

Filed in dist. court of Apache Co., Sept. 24th, 1891, by John T. Hogne, clerk. Filed in dist. court of Coconino Co., Oct. 3rd, 1891, by E. L. Clark, clerk. Filed in dist. court of Yavapai Co., March 30th, 1896, by A. J. Herndon, clerk. Filed in dist. court of Maricopa Co., May 6th, 1896, by J. E. Walker, clerk.

81 Now comes the defendant in the above entitled causes and demurs to the complaint of the plaintiff herein, and for cause of demurrer alleges:

That the said complaint does not state facts sufficient to constitute a cause of action.

And for answer the defendant denies each and every allegation of the plaintiff in his said complaint contained.

T. S. BUNCH,

Dist. Att'y for Apache Co., Arizona.

In the District Court for Apache County, Arizona Territory.

JACOB BARTH, Plaintiff, *vs.* APACHE COUNTY, Defendant. } Notice of Application for Change of Venue.

Filed in dist. court of Apache Co., Sept. 10th, 1891, by John T. Hogne, clerk. Filed in dist. court of Coconino Co., October 3rd, 1891, by E. S. Clark, clerk. Filed in dist. court of Yavapai Co., March 30th, 1896, by A. J. Herndon, clerk. Filed in dist. court of Maricopa Co., May 6th, 1896, by J. E. Walker, clerk.

To the chairman of the board of supervisors of Apache county, F. T. La Prade.

82 SIR: You will please take notice that on the 26th of September, 1891, or as soon thereafter as practicable and permissible by law, to the Hon. E. W. Wells, the judge of said court, in term time, in open court, to be holden at St. Johns, in Apache county, Arizona Territory, in accordance with the provisions of an act of the legislature of said Territory entitled an "Act supplemental to chapter 9, title 15, Revised Statutes of Arizona, in relation to

change of venue," approved March 14th, 1891, and found on pages 59, 60, and 61 of the Acts of 1891, we will apply for a change of venue in the above-entitled cause to some other county of said Territory.

St. Johns, Arizona, September 10th, 1891.

Respectfully, BALDWIN & JOHNSTON,
Att'ys for Plaintiff.

In the District Court of Apache County, Arizona Territory.

JACOB BARTH, Plaintiff, *vs.* APACHE COUNTY, Defendant. } Notice of Application & Application for Change of Venue.

To the Honorable E. W. Wells, judge of said court and sole — presiding therein:

The plaintiff in the above-entitled cause would respectfully represent unto your honor that the above-entitled cause is a civil
83 action pending in said district court of said Apache county; that said Apache County is a party to said action, to wit, the defendant therein; that notice of this application for a change of venue in said case to some other county in said Territory has been served upon the chairman of the board of supervisors of said Apache county for more than five days prior to its presentation to your honor, and that an answer has been filed in said case by said defendant.

Wherefore, the premises considered, the plaintiff prays that upon his paying all costs incident to said change of venue and transfer of said case to some other county of said Territory, and within ten days after the making of the order therefor, said plaintiff making and delivering and giving and undertaking to the opposite party, said defendant, with sureties to be approved by the judge of the court, or in case of his absence from the county, then by the clerk of said court or by the commissioner of said court, to the effect that he, said plaintiff, will pay all costs which may be adjudged against him in said case, that said court, in accordance with the provisions of an act of the legislature of said Territory entitled "An act supplemental to chapter 9, title 15, Revised Statutes of Arizona, in relation to change of venue," approved March 14th, 1891, by proper order made in the premises, grant to said plaintiff in said case a change of venue thereof from said Apache county to some other county in said Territory where the same may be tried or disposed of according to law; and, as in duty bound, plaintiff will ever pray.

BALDWIN & JOHNSTON,
Att'ys for Plaintiff.

84 THE TERRITORY OF ARIZONA, }
The County of Apache. }

Before the undersigned authority personally appeared P. C. Jacoby, who, after being sworn according to law, deposes and says: That he is over the age of twenty-one years; that he is not inter-

ested in said suit of J. Barth *vs.* Apache County; that he served a true copy of the within notice of application and said application for change of venue in said case upon the chairman of the board of supervisors of Apache county, to wit, F. T. La Prade, at Winslow, Apache county, on the 14th day of September, 1891, by delivering to said chairman of said board of supervisors, said F. T. La Prade, by delivering the same to him in person at said time and place.

P. C. JACOBY.

Sworn to and subscribed before me this the 14th day of September, 1891.

CHAS. L. FLINN,

[SEAL.] *Notary Public for said County & Territory.*

In the District Court of Apache County, Arizona Territory.

JACOB BARTH, Plaintiff,
vs.
APACHE COUNTY, Defendant. } Order Granting Change of Venue.

Filed in dist. court of Apache Co., September 26th, 1891, by John T. Hogue, clerk. Filed in dist. court of Coconino Co., October 3rd, 1891, by E. S. Clark, clerk. Filed in dist. court of Yavapai Co., March 30th, 1896, by A. J. Herndon. Filed in dist. court of Maricopa Co., May 6th, 1896, by J. E. Walker, clerk.

85 On this the 26th day of September, 1891, the same being a regular day in the July term, 1891, of said court, came on to be heard the application of the plaintiff in the above case for a change of venue in said case to some other county in said Territory, and it appearing from the application of plaintiff and the records of this court:

1.

That said cause is a civil action pending in the district court for Apache county, said Territory; and

2.

That said Apache County is a party to said action, to wit, the only defendant therein; and

3.

That five days' notice of said application for change of venue has been given to the chairman of the board of supervisors of said Apache county; and

4.

That said Apache County, defendant therein, by its proper officer, has caused to be filed an answer therein, it is ordered by the court that said application of plaintiff for change of venue in said case be, and the same is hereby, granted, and that the clerk of this court is hereby ordered to transmit forthwith to the clerk of the district court for Coconino county, said Territory, all of the papers and a transcript of the proceedings had in this court in said case, and that

said case, in all of its parts, is hereby transferred for trial or final disposition to said district court of said Coconino county.

And the clerk of said district court of said Coconino county is hereby ordered to receive all of the papers in said case and
86 to docket said cause in its order; provided that within ten days from this order that said plaintiff shall pay all costs which have accrued or may accrue in said case in this court and shall within said ten days give to the opposite party in said cause an undertaking, with sureties to be approved by the judge of this court, if within this county, or, in his absence, by the clerk or commissioner of said court, conditioned to the effect that said plaintiff will pay all costs which may be adjudged against him in said case, as required and provided by an act of the legislature of said Territory entitled "An act supplemental to chapter 9, title 15, Revised Statutes of Arizona, in relation to change of venue," approved March 14th, 1891.

Done in open court, at St. Johns, Apache county, Arizona Territory, this 26th day of September, 1891.

EDMUND W. WELLS,
District Judge.

Office of Curtiss & Co., wholesale paper warehouse, Houseman building, cor. Pearl & Ottowa streets.

GRAND RAPIDS, MICH., *Sep.* 9, 1891.

Messrs. Baldwin & Johnston.

GENTLEMEN: You have my permission to sign my name to court cost bond in the case of Jacob Barth *vs.* Apache County, now
87 pending, your signature to be binding on me for said cost.

Yours, JACOB BARTH.

In the District Court of Apache County, Arizona Territory.

JACOB BARTH, Plaintiff, *vs.* APACHE COUNTY, Defendant. } Undertaking for Costs on Change of Venue.

Filed in dist. court of Apache Co., Sept. 26th, 1891, by John T. Hogne. Filed in dist. court of Coconino —, Oct. 3rd, 1891, by E. S. Clark, clerk. Filed in dist. court of Yavapai Co., March 30th, 1896, by A. J. Herndon, clerk. Filed in dist. court of Maricopa Co, May 6th, 1896, by J. E. Walker, clerk.

Whereas, on the 26th day of September, 1891, on the written application of plaintiff, as required by law, a change of venue for the trial of said case was in open court in term time granted, and said case was ordered to be transferred for trial or final disposition to the district court of Coconino county, in said Territory, in accordance with the provisions of an act of the legislature of said Territory entitled "An act supplemental to chapter 9, title 15, Revised Statutes of Arizona, in relation to change of venue," approved March 14th, 1891:

Therefore, in consideration of the premises and in accordance with the requirements of said last named act, we, Jacob Barth, resident of Grand Rapids, county of Kent, State of Michigan, as principal, and A. Ruiz, A. F. Banta, Ben. Schuster, residents of
88 said county of Apache, as sureties, do undertake and promise for ourselves, our heirs and executors, that said plaintiff will pay all costs which may be adjudged against him in said case.

Witness our signatures this the 26th day of September, 1891.

JACOB BARTH,
By his attorney of record and his attorneys-in-fact, as per letter attached hereto, BALDWIN & JOHNSTON,
ALBERT F. BANTA,
BEN. SCHUSTER,
ALFRED RUIZ.

I approve the above and foregoing undertaking, St. Johns, Apache county, Arizona Territory, the 26th day of September, 1891.

EDMUND W. WELLS,
District Judge.

In the District Court for Apache County, Arizona Territory.

JACOB BARTH, Plaintiff,
vs.
APACHE COUNTY, Defendant. } Receipt Costs in Apache County.

Filed in dist. court of Apache Co., September 26th, 1891, by J. T. Hogne. Filed in dist. court of Coconino Co., October 3rd, 1891, by E. S. Clark, clerk. Filed in dist. court of Yavapai Co., March 30th, 1896, by A. J. Herndon, clerk. Filed in dist. court of Maricopa Co., May 6th, 1896, by J. E. Walker, clerk.

Received, St. Johns, A. T., September 26th, 1891, of T. W. Johnston, of counsel of record for said plaintiff, the sum of forty-
89 one and $\frac{25}{100}$ dollars ($41.25), in full payment of all costs in said cause which have accrued in this court up to and inclusive of the transfer of said case to the district court of Coconino county.

JOHN T. HOGNE,
Clerk of Dist. Court for Apache County & said Territory.

In the District Court of the Fourth Judicial District of the Territory of Arizona in and for the County of Coconino.

JULIA BARTH, Substituted for Jacob Barth, Plaintiff,
vs.
APACHE COUNTY, Defendant. } No. 2619. Answer.

Filed Oct. 7th, 1892, in dis. co. of Coconino county, by E. S. Clark, clerk. Filed in dist. court of Yavapai county, by A. J. Herndon, March 30th, 1896. Filed in dist. court of Maricopa Co., by J. E. Walker, clerk, on May 6th, 1896.

Comes now the above-named defendant, and for its amended answer to the complaint of the plaintiff, filed herein, leave of court

first being had to file same, and by way of demurrer thereto, and says that it appears upon the face of said complaint that the same fails to state facts sufficient to constitute a cause of action against defendant.

And that it appears upon the face of each count of said
90 complaint that each of said counts fail- to state facts sufficient to constitute a cause of action against this defendant.

That the first count of said complaint fails to state facts sufficient to constitute a cause of action against this defendant.

That said first count of said complaint improperly joins forty separate and distinct causes of action therein, and is therefore insufficient in law.

That the second to the forty-first counts, inclusive, each fails to state facts sufficient to constitute a cause of action against this defendant.

That each cause of action attempted to be set up in each of said counts from the first to the forty first, inclusive, as appears upon the face of said complaint, did not accrue within four (4) years before the commencement of this action.

That each cause of action attempted to be set up in each of said counts from the first to the forty-first, inclusive, as appears upon the face of said complaint, did not accrue within five (5) years before the commencement of this action.

That plaintiff has no legal capacity to sue and maintain this action, letters of administration or letters testamentary in the estate of Jacob Barth not having been granted to her in this Territory, and she not being the real party in interest in this action.

Wherefore, the defendant, having fully answered, prays the judgment of the court as to the sufficiency of said complaint and that defendant go hence with its costs.

T. S. BUNCH &
NORRIS & ELLENWOOD,
HERNDON & HAWKINS,
Att'ys for Defendant.

91 2.

Defendant, further answering said complaint and by way of plea in abatement, says:

That plaintiff, Julia Barth, has no legal capacity to sue and maintain this action for the reason that Jacob Barth, in whose name and by whom this action was instituted, having died since the commencement of the action and his death having been suggested to the court, the said Julia Barth was substituted as plaintiff.

That such substitution is without right or authority of law.

That said Julia Barth is not a resident of this Territory; that she does not own the alleged warrants or indebtedness sued on; that she is not the real party in interest; that she has never taken out letters of administration in this Territory on the estate of Jacob Barth, nor has any will of said Jacob Barth been probated in this Territory, nor have letters testamentary been granted to her in said estate.

And that the administrator of the estate of said Jacob Barth or the executor of his last will and testaments, and no one else, can legally maintain this action.

Wherefore *plaintiff* prays that this action may abate, and that plaintiff take nothing by her said action, and that defendant go hence with costs.

T. S. BUNCH,
NORRIS & ELLENWOOD,
HERNDON & HAWKINS,
Att'ys for Defendant.

3.

Defendant, further answering said complaint, denies gen-
92 erally and specifically each and every allegation contained therein, and denies each and every allegation contained in each count of said complaint.

Wherefore defendant, having fully answered, prays to go hence with costs.

T. S. BUNCH &
NORRIS & ELLENWOOD,
HERNDON & HAWKINS,
Attorneys for Defendant.

4.

Defendant, further answering said complaint, denies that defendant, acting by and through its lawful agents, to wit, its board of supervisors, in regular and open session, or by and through any person or persons whatsoever, at any time or times or at all, did make, execute, and deliver to any person whomsoever or did make or execute at all the pretended warrants set out in the various counts of said complaint, or any of them, but upon information and belief alleges and charges the fact to be that each and every of said pretended warrants mentioned in each count of said complaint was and is false and fraudulent, and each and every of them is and was forged by some person or persons to defendant unknown.

And defendant further alleges and charges that the board of supervisors of defendant had not at the times and dates alleged in the various counts of said complaint or at all the right, power, and authority to make, execute, and deliver any of said warrants, nor was or is defendant legally bound or otherwise to pay the pretended
indebtedness mentioned in any of the counts of said com-
93 plaint, nor had or has the said board of supervisors any right, power, or authority to make, execute, or deliver any of said pretended warrants, nor to contract for or pay by warrant or otherwise for any of said pretended indebtedness, mentioned in the various counts of said complaint, nor any of them, and that each of said pretended warrants was made and executed without any authority of law.

Wherefore defendant, having fully answered, asks to go hence with its costs and disbursements incurred herein.

T. S. BUNCH,
NORRIS & ELLENWOOD,
HERNDON & HAWKINS,
Attorneys for Defendant.

TERRITORY OF ARIZONA, } ss:
County of Yavapai, }

T. S. Bunch, being duly sworn, upon his oath says that he is district attorney of the said County of Apache, defendant in the foregoing action, and as such he makes this affidavit for and on behalf of said plaintiff; that he has heard the foregoing answer read, and that the allegations contained in the second and third grounds of defence set up in said answer are true as he verily believes.

That he knows the contents of said ground- of defence, and that the same *is* true of his own knowledge, except as to those matters stated on information and belief, and as to those matters he believes it to be true.

T. S. BUNCH.

Subscribed and sworn to before me this seventh day of October, A. D. 1892.

[SEAL.]

ELIAS S. CLARK,
Clerk Dist. Court.

94 In the District Court of the Fourth Judicial District of the Territory of Arizona in and for the County of Yavapai.

JULIA BARTH, Substituted for Jacob Barth, Plaintiff,
vs.
APACHE COUNTY, Defendant.

No. 270. Notice of Application.

Filed Sept. 6th, 1895. Filed May 6th, 1896, by J. E. Walker, clerk dist. ct. of Maricopa county.

To Apache County or W. H. Burbage, district attorney, St. Johns, A. T.:

You will please take notice that on September 19th, 1895, I will apply to the clerk of the above-entitled court for a commission to take the answers of Mrs. Julia Barth, a material witness, to the direct interrogatories hereto attached. Said commission will be directed to some officer competent to take depositions in the city of Grand Rapids, State of Michigan. The name of the witness is Mrs. Julia Barth, and she is to be found at room 445, Michigan Trust Company building, Grand Rapids, Michigan, and the answer- to said interrogatories when so taken and the deposition perfected are to be used by the plaintiff at the trial of the above-entitled cause.

Dated at Prescott, Arizona, this the 6th day of September, 1895.

T. W. JOHNSTON,
Att'y for Plaintiff.

95 In the District Court of the Fourth Judicial District of the Territory of Arizona in and for the County of Yavapai.

MRS. JULIA BARTH, Substituted by Order of the Court for Jacob Barth, Plaintiff,
vs.
APACHE COUNTY, Defendant.
} Direct Interrogatories.

Direct Interrogatories to be Propounded to Mrs. Julia Barth.

Int. 1. Please state your name and place of residence.

Int. 2. Do you know Jacob Barth, the original plaintiff in this case, and can you tell where he is?

Int. 3. If you shall have answered that he is dead, please state what relation you bore to him during his lifetime, and the date of his death.

Int. 4. Are you familiar with the Apache county warrants upon which this suit is brought; and, if yea, can you state to whom they now belong?

Int. 5. State whether or not on March 16th and October 4th, 1892, the said Jacob Barth was alive or not.

Int. 6. On March 16th and October 4th, 1892, do you know to whom the Apache county warrants, on which this suit is brought, belonged? And, if yea, please state who then was and now is
96 the owner of said warrants, and state in detail how such person or persons then became and now is the owner and holder of said warrants?

Int. 7. Can you state whether or not Jacob Barth died intestate or left a will, if you shall have answered that he is dead? And, if yea, please attach as an exhibit, properly marked for identification, to these answers of yours a copy of any such will of Jacob Barth as may be in existence, if you say he left a will, duly verified under the acts of Congress as well as the State laws of Michigan or any other State where said will may be.

Int. 8. If there has been any administration upon the estate of Jacob Barth, if you shall have said that he died and left an estate and a will, and any distribution ordered by any court having competent jurisdiction of the effects of the estate of said Jacob Barth, including the warrants sued on, please attach as an exhibit to your answers, properly marked for identification, a copy of any such order or other proceeding of any court of competent jurisdiction directing a distribution of said estate to any person or persons, including the warrants sued on, if you shall say that any such order has been made.

Int. 9. Please tell, if you can, who is the executrix, representative, or successor in interest of said Jacob Barth in the above-mentioned case, wherein said Apache county warrants are sued on, and
97 how the person named became such executrix, representative, or successor in interest.

Int. 10. Who is the Julia Barth in whose name said case on October 4th, 1892, at the August term of the Coconino county court, in

Arizona Territory, said suit was revived, and who was substituted as plaintiff in said case, if you say there was such revival and such substitution at such time and place?

T. W. JOHNSTON,
Att'y for Plaintiff.

I, W. H. Burbage, district attorney for Apache county, Arizona Territory, do hereby acknowledge that on the 18th day of September, 1895, at St. Johns, Arizona, the hereto-attached notice to take the deposition of and the direct interrogatories addressed to Mrs. Julia Barth in the foregoing case were served upon me, and I agree that commission may issue September 19th, 1895.

Dated at St. Johns, A. T., this the 18th day of Sept., 1895.

W. H. BURBAGE,
Dist. Att'y, Apache Co., Arizona Territory.

In the District Court of the Fourth Judicial District of the Territory of Arizona in and for the County of Yavapai.

To Arthur T. Hatch, notary public, duly appointed within
98 the State of Michigan, Greeting:

You are hereby authorized and empowered to cause to come before you Mrs. Julia Barth, resident of Grand Rapids, Michigan, and her answers to take to the accompanying interrogatories propounded to her in a certain cause now pending in the district court of the fourth judicial district of the Territory of Arizona in and for the county of Yavapai, wherein Julia Barth (substituted for Jacob Barth) is plaintiff and Apache County is defendant; and, having reduced the said answers to writing, you will cause the said witness to swear to and subscribe them before you, to which you will certify officially; after which you will seal up said answers and interrogatories, together with this commission, in a package directed to the clerk of the district court of the 4th judicial district aforesaid, conforming in all respects to the requisitions of the statute in such cases made and provided.

Witness A. J. Herndon, clerk of the district court of the fourth judicial district of the Territory of Arizona in and for the
[SEAL.] county of Yavapai, and the seal of said court, at office, in the city of Prescott, this the 19th day of September, A. D. 1895.

A. J. HERNDON, *Clerk*,
By WILLIAM WILKERSON, *Deputy.*

99 UNITED STATES OF AMERICA:

In the District Court of the Fourth Judicial District of the Territory of Arizona in and for the County of Yavapai.

JULIA BARTH (Substituted for Jacob Barth), Plaintiff,
vs.
APACHE COUNTY, Defendant. } No. 270.

Deposition of Julia Barth, of the city of Grand Rapids, in the county of Kent and State of Michigan, a witness produced, sworn, and examined pursuant to the notice, commission, & direct written interrogatories hereto annexed, at the instance of the plaintiff in the above-entitled cause, to be used in said cause.

Having read the said commission and the instructions thereunto annexed, and having publicly administered to the said witness an oath that the answers which should be given by her to the interrogatories proposed to her and annexed to the said commission should be the truth, the whole truth, and nothing but the truth, I proceeded to the examination of the said witness, who testified as follows:

Interrogatory 1. Please state your name and place of residence.

Answer. Mrs. Julia Barth; Grand Rapids, Michigan.

Interrogatory 2. Do you know Jacob Barth, the original plaintiff in this case, and can you tell where he is?

100 Ans. I knew Jacob Barth in his lifetime, but he is now dead.

Int. 3. If you shall have answered that he is dead, please state what relation you bore to him during his lifetime and the date of his death.

Ans. He died on the fifth day of January, 1892, at his home, in the city of Grand Rapids, county of Kent and State of Michigan, which was his place of residence at that time. I was his wife at that time.

Int. 4. Are you familiar with the Apache county warrants upon which this suit is brought; and, if yea, can you state to whom they now belong?

Ans. They belong to me now. I know that they are in existence, and that is all.

Int. 5. State whether or not on March 16th and October 4th, 1892, the said Jacob Barth was alive or not.

Ans. He was dead on March 16th and October 4th, 1892.

Int. 6. On March 16th and October 4th, 1892, do you know to whom the Apache county warrants on which this suit is brought belonged? And, if yea, please state who then was and now is the owner of said warrants, and state in detail how such person or persons then became and now is the owner and holder of said warrants.

Ans. Yes; I am: by virtue of the will of my husband, which is admitted to probate in the probate court for the county of Kent, in

the State of Michigan. I was such owner on the 16th of March and October 4th, 1892.

Int. 7. Can you state whether or not Jacob Barth died intestate or left a will if you shall have answered that he is dead? And, if yea, please attach as an exhibit, properly marked for identification, to these answers of yours, a copy of any such will of Jacob
101 Barth as may be in existence, if you say he left a will duly verified under the acts of Congress as well as the State laws of Michigan or any other State where said will may be.

Ans. He left a will, which is admitted to probate, as I have said, and is also recorded in the office of the register of deeds for said county of Kent, in said State of Michigan.

(Copy of will produced and marked "Plaintiff's Exhibit A.")

Int. 8. If there has been any administration upon the estate of Jacob Barth, if you shall have said that he died and left an estate and a will, and any distribution ordered by any court having competent jurisdiction of the effects of the estate of said Jacob Barth, including the warrants sued on, please attach as an exhibit to your answers, properly marked for identification, a copy of any such order or other proceeding of any court of competent jurisdiction directing a distribution of said estate to any person or persons, including the warrants sued on, if you shall say that any such order has been made.

Ans. There has been no order of distribution, and under the laws of the State of Michigan none is necessary where, as in this case, the residuary legatee gives a residuary legatee's bond. I am the residuary legatee under the will of Jacob Barth, and have given such bond. Such bond was given on the 8th day of February, 1892, an exemplified copy of which is hereto annexed, marked "Plaintiff's Exhibit B." On the giving of such bond the title to the whole estate became vested in me as residuary legatee under the will.

By the will of Jacob Barth I was appointed executrix, and as such, on the 9th day of September, 1893, filed my final
102 account with the probate court of said county of Kent, and on the 6th day of October, 1893, obtained from said probate court an order allowing said account and discharging me as executrix under said will, a copy of which order is hereto annexed and marked "Plaintiff's Exhibit C."

Int. 9. Please tell me, if you can, who is the executrix, representative, or successor in interest of said Jacob Barth in the above-mentioned case, wherein said Apache county warrants are sued on, and how the person named became such executrix, representative, or successor in interest.

Ans. I was the executrix and representative and am the successor in interest of said Jacob Barth in the above-mentioned case of said Apache county warrants sued on, and became such executrix by virtue of said will of said Jacob Barth, and also of the order of the probate court for the county of Kent, in the State of Michigan, allowing said will and appointing me executrix of the estate of said

Jacob Barth, deceased. I am the successor in interest of said Jacob Barth in the above-mentioned case, wherein said Apache county warrants are sued on and the owner of said warrants by virtue of said will and the orders of the probate court of the county of Kent, in the State of Michigan, heretofore mentioned. Upon said will being admitted to probate by the probate court for the county of Kent aforesaid, I gave the bonds in the penal sum of ten thousand dollars, with sufficient sureties, which were approved by the probate court of said county of Kent, as required in the order
103 of said court admitting said will to probate.

Int. 10. Who is the Julia Barth in whose name said case, on October 4th, 1892, at the August term of the Coconino county court, in Arizona Territory, said suit was revived and who was substituted as plaintiff in said case, if you say there was such revival and such substitution at such time and place?

Ans. I am said Julia Barth in whose name said case, on October 4th, 1892, at the August term of the Coconino county court, in Arizona Territory, was revived and who was substituted as plaintiff in said case. I am the widow of said Jacob Barth and the residuary legatee mentioned in said will.

MRS. JULIA BARTH.

STATE OF MICHIGAN, } ss:
County of Kent, }

I, Arthur T. Hatch, residing in the city of Grand Rapids, in said county of Kent and State of Michigan, do hereby certify:

1st.

That the foregoing deposition of Julia Barth was taken before me pursuant to notice and commission and written direct interrogatories, a copy of which notice, with proof of service by affidavit, together with said commission and written direct interrogatories, are hereto attached.

2nd.

That said deposition was taken on the 21st day of October, A. D. 1895, at the office of Reuben Hatch, No. 401 Widdicomb building, in the city of Grand Rapids, in said county of Kent and State of Michigan; that the taking of the same was begun on the
104 21st day of October, 1895, at 4 o'clock in the afternoon; that there appeared Mr. Reuben Hatch, counsel for the plaintiff, for the purpose of taking said deposition.

3rd.

That said witness was first duly sworn by me to tell the truth, the whole truth, and nothing but the truth in answer to the interrogatories attached to said commission and notice, and was then examined on said written interrogatories propounded by said Reuben Hatch, counsel for the said plaintiff.

4th.

The said interrogatories and the answers of the witness thereto were taken down stenographically by me, and were then forthwith transcribed by me, and the said transcript was then correctly read over to the witness by me, and was then signed by the witness, and the transcript so read and signed is hereto attached and constitutes the foregoing deposition of the witness.

And I certify that the same is correct, and that the said deposition contains truly and fully all the interrogatories put to the witness and her answers thereto on said examination and nothing more nor less.

5th.

That I am not counsel or attorney for either of the parties in said suit and am not interested in the event of said cause; that I am a notary public in and for said county of Kent, in the State of Michigan, duly appointed and qualified and authorized by the laws of the State of Michigan to administer oaths.

ARTHUR T. HATCH,
[SEAL.] *Notary Public, Kent County, Michigan.*

Commissioner's fees, $3.95.
Dated Grand Rapids, Michigan, October 22nd, 1895.

105 *Certificate for Affidavit.*

STATE OF MICHIGAN, }
County of Kent, } *ss:*

I, Franklin D. Eddy, clerk of said county and *ex officio* clerk of the circuit court thereof, being a court of record, having common-law jurisdiction, do hereby certify that Arthur T. Hatch, Esq., before whom the above affidavit was sworn to, was at the date of administering such oath a notary public in and for said county, duly commissioned, qualified, and sworn, and authorized by the laws of said State to administer such oath; that I am acquainted with the handwriting of said Arthur T. Hatch, and believe his signature appended to the above certificate to be genuine, and that the said instrument is executed according to the laws of the State of Michigan.

In witness whereof I have hereunto set my hand and official seal, at the city of Grand Rapids, this 7th day of November, A. D. one thousand eight hundred and ninety-five.

FRANKLIN D. EDDY, *Clerk,*
By JOHN J. VOS, *Deputy.*

106 PLAINTIFF'S EXHIBIT "A."

"In the name of God, amen!

I, Jacob Barth of the city of Grand Rapids, county of Kent and State of Michigan being of sound and disposing mind and memory, but knowing the uncertainty of this life, do make this my last will and testament.

I give, devise and bequeath all the estate I shall die possessed of, real, personal and mixed, including choses in action, and rights of action, and by whatever name the same may be known and wherever situate (excepting however, such life insurance and endowment benefits as I have taken out for and directed to be paid to other beneficiaries besides herself, to my beloved wife, Julia Barth, whom I hereby nominate and appoint sole executrix of this my last will and testament.

In testimony whereof I have hereunto set my hand and in the presence of two witnesses declare this to be my last will this 29th day of February, 1884.

JACOB BARTH. [L. S.]"

On this 29th day of February, 1884, Jacob Barth, of Grand Rapids, Michigan, signed the foregoing instrument in our presence, declaring it to be his last will, and as witnesses thereof we two do
107 now, at his request, in his presence and in the presence of each other, hereto subscribe our names.

BELLE ZUNDER,
95 *Bronson St., Grand Rapids, Michigan.*
GUSTAV A. WOLF,
Grand Rapids, Michigan.

STATE OF MICHIGAN, }
County of Kent, } *ss.*

At a session of the probate court for the county of Kent, holden at the probate office, in the city of Grand Rapids, on Monday, the 8th day of February, in the year one thousand eight hundred and ninety-two.

Present: Cyrus E. Perkins, judge of probate.

In the Matter of the Estate of JACOB BARTH, Deceased.

This day having been assigned by an order of this court for hearing the petition of Julia Barth, praying, amongst other things, for the probate of the instrument heretofore filed in this court purporting to be the last will and testament of said deceased—

Now comes into court the said petitioner, and no one appearing in opposition, and it appearing to the court by due proof on file that a copy of the order of this court touching the hearing of said petition, made on the 14th day of January last past, has been duly published as therein directed, whereby all parties interested
108 in the premises were duly notified of said hearing:

Whereupon Gustav A. Wolf, one of the subscribing wit-

nesses to said instrument, appeared in court and made oath that he saw the said Jacob Barth, at the city of Grand Rapids, in said county of Kent, sign, seal, and heard him publish and declare the said instrument to be his last will and testament, and that he and Belle Zunder, as subscribing witnesses, at the same time attested the same and subscribed their names as witnesses thereto, in the presence of each other and of the said testator and at his request, and that he was then, according to the discernment of said deponent, of sane mind.

And it further appearing that said deceased last dwelt and had his residence in and was an inhabitant of the city of Grand Rapids, in said county, and there died;

And the evidence touching the premises being maturely considered, it satisfactorily appears to this court that said instrument is duly proved and ought to be allowed as the last will and testament of said deceased.

It is therefore ordered, adjudged, and decreed by this court that said instrument be approved, allowed, established, and have full force and effect as the last will and testament of said deceased, and that the same be recorded as required by law.

And it is further ordered that the execution of said will be committed and the administration of the estate of said deceased be granted to said Julia Barth, the executrix in said will named, who is ordered to give bonds in the penal sum of ten thousand dollars, with sufficient sureties, as required by the statute in such case made and provided, and upon the same being duly approved and
109 filed the letters testamentary do issue in the premises.

CYRUS E. PERKINS,
Judge of Probate.

STATE OF MICHIGAN, } ss:
County of Kent, }

Probate Court for said County.

Be it remembered that the annexed instrument, being the last will and testament of Jacob Barth, late of the city of Grand Rapids, in said county, deceased, was duly proved, approved, allowed, and ordered to be recorded, as more fully appears by the decree of said court duly entered herein.

In witness whereof I have hereunto set my hand and affixed the seal of said probate court, at the city of Grand Rapids, in
[SEAL.] said county, this 8th day of February, in the year one thousand eight hundred and ninety-two.

CYRUS E. PERKINS,
Judge of Probate.

PLAINTIFF'S EXHIBIT "A."

Exemplification of Record.

STATE OF MICHIGAN, } ss:
County of Kent, }

In the Probate Court for said County.

Estate of JACOB BARTH, Deceased.

Certified copy of will and probate.

STATE OF MICHIGAN, } ss:
Register's Office, Kent County, }

Received for record this 12th day of March, A. D. 1892, at 12 and ¼ o'clock p. m., and recorded in Liber 208 of Wills, Power- of Attorney, etc., on pages 570, 571, and 572.

R. L. SKINNER,
Register of Deeds,
By A. E. COX, *Deputy.*

110 I, Adolph B. Mason, register of probate for said county and *ex officio* clerk of the probate court for said county, do hereby certify that I have compared the annexed and foregoing copy of the last will and testament of Jacob Barth, deceased, the order admitting same to probate, and the certificate of the probate thereof with the original record thereof now remaining in this office, and have found the same to be a correct transcript therefrom and of the whole of such original record.

In testimony whereof I have hereunto set my hand and
[SEAL.] the seal of said court, at the city of Grand Rapids, this 26th day of February, in the year of our Lord one thousand eight hundred and ninety-two.

ADOLPH B. MASON, *Register.*

PLAINTIFF'S EXHIBIT "B."

STATE OF MICHIGAN, } ss:
County of Kent, }

Probabe Court for said County.

In the Matter of the Estate of JACOB BARTH, Deceased.

Know all men by these presents that we, Julia Barth, as principal, and Louis Barth and David M. Amberg, as sureties within the State of Michigan, are holden and stand firmly bound and obliged unto Cyrus E. Perkins, judge of probate in and for said county of Kent, in the full sum of ten thousand dollars, lawful money
111 of the United States of America, to be paid unto the said judge of probate, his successors in the said office or assigns;

to the true payment whereof we do bind ourselves and each of us, our and each of our heirs, executors, and administrators, jointly and severally, for the whole and in the whole, firmly by these presents.

Sealed with our seals. Dated the 8th day of February, anno Domini one thousand eight hundred and ninety-two.

Whereas the above-bounden Julia Barth hath been appointed by the probate court of said county sole executrix of the last will and testament and *ex officio* administratrix of the estate of Jacob Barth, late of said county of Kent, deceased;

And whereas by the terms of said last will and testament the said Julia Barth is made the residuary legatee of the said Jacob Barth, deceased:

Now, therefore, the condition of this present obligation is such that if the above-bounden Julia Barth shall well and truly pay or cause to be paid all of the debts, legacies, and charges chargeable on said estate without fraud or delay, then the above obligation to be void and of none effect, or else to abide and remain in full force and virtue.

MRS. JULIA BARTH. [SEAL.]
LOUIS BARTH. [SEAL.]
D. M. AMBERG. [SEAL.]

Sealed and delivered in presence of—

——— ———.

KENT COUNTY, *ss:*

At a session of the probate court in and for said county, holden at the city of Grand Rapids, on Tuesday, the 9th day of February, A. D. 1892.

112 I have examined and do approve of the foregoing bond and order the same to be filed and recorded in the probate office of said county.

CYRUS E. PERKINS,
Judge of Probate.

COUNTY OF KENT, *ss:*

Probate Court, City of Grand Rapids, Feb. 9th, A. D. 1892.

Filed and recorded in Liber A-12, page 275.

ADOLPH B. MASON,
Register of Probate.

PLAINTIFF'S EXHIBIT "C."

STATE OF MICHIGAN, } *ss:*
County of Kent, }

At a session of the probate court for the county of Kent holden at the probate office, in the city of Grand Rapids, on Friday, the 6th day of October, in the year one thousand eight hundred and ninety-three.

Present: Hon. Cyrus E. Perkins, judge of probate.

In the Matter of the Estate of JACOB BARTH, Deceased.

This day having been assigned by an order of this court touching the examination and allowance of the final account of Julia Barth, executrix, now comes into court the said executrix, and no one appearing in opposition, and it appearing to the court by due proof on file that a copy of the order of this court touching the
113 examination and allowance of said account made on the 9th day of September, 1893, has been duly published as therein directed, whereby all parties interested have been duly notified of said hearing;

And it further appearing to the court, after due examination of said account and the proofs and vouchers produced in support thereof, that the same is correct and just and ought to be allowed—

Thereupon it is ordered that said account now on file in this court be, and the same is hereby, allowed as the final account of said executrix in said matter, and said executrix and her bondsmen be, and they are hereby, released and discharged.

Certified Copy of Bond and Order of Final Accounting.

STATE OF MICHIGAN, }
County of Kent. }

In the Probate Court for said County.

I, Harry D. Jewell, register of probate for said county and *ex officio* clerk of the probate court for said county, do hereby certify that I have compared the annexed and foregoing copy of bond of Julia Barth, executrix and residuary legatee of the estate of Jacob Barth, late of Kent county, Michigan, deceased, and the order allowing final account and discharging said executrix, with the original record thereof now remaining in this office, and have found the same to be a correct transcript therefrom and of the whole of such original record.

114 In testimony whereof I have hereunto set my hand and the seal of said court, at the city of Grand Rapids, this
[SEAL.] 21st day of October, in the year of our Lord one thousand eight hundred and ninety-five.

HARRY D. JEWELL,
Register of Probate.

In the District Court of the Fourth Judicial District of the Territory of Arizona in and for the County of Coconino.

Transcript on the change of venue in the cause entitled—

JACOB BARTH, Changed by Order to JULIA Barth October 4th, 1892, Plaintiff, *vs.* APACHE COUNTY, Defendant. } Minute Proceedings of Apache County.

Entered March 30th, 1896. Filed in dist. ct., Maricopa Co., by J. E. Walker, clerk.

March term, 1892; day of term, third; page of record, 89. March 16th.

The death of the plaintiff is suggested, and the cause ordered continued upon application of the defendant.

On motion of counsel for defense, Messrs. Herndon & Hawkins are hereby added as attorneys for defendant.

115 August term, 1892; day of term, 4th; page of record, 157. October 4th.

It having been heretofore suggested to the court that the plaintiff herein is dead, it is now ordered on application of the counsel for the plaintiff that the name of Julia Barth be substituted as plaintiff in this cause.

August term, 1892; day of term, 7th; page of record, 172. October 7th.

Upon application of attorney for defendant it is hereby ordered that the defendant be allowed till 2 o'clock p. m. of this day to file amended answer herein; at which time the demurrer and plea in abatement on file herein was taken up by the court, counsel for respective parties being in court, and after being argued by counsel further hearing thereof was postponed until tomorrow, the 8th day of October, 1892.

August term, 1892; day of term, 12th; page of records, 200. October 13th.

Counsel for respective parties being in court, the demurrer on file is herein confessed by the attorney for plaintiff and leave asked and granted to file an amended complaint herein on or before January 1st, 1893.

Upon further motion of attorney for plaintiff, attorney for defendant concurring, it is ordered that the issues herein be submitted to the court by briefs.

116 August term, 1893; day of term, 3rd; page of record, 295. October 23rd.

Hon. Jno. J. Hawkins, having been an attorney in this cause and being therefore disqualified to try it, upon his own motion, all par-

ties consenting, hereby transfers the cause to the third judicial district in and for the county of Maricopa, to be tried before the Hon. A. C. Baker, judge of said district.

I, Oscar Gibson, clerk of the district court of the fourth judicial district of the Territory of Arizona in and for the county of Coconino, do hereby certify the above and foregoing to be a full, true, and correct transcript of all orders made in the above-entitled cause in the above-entitled court, the same appearing of record in the Court Record of No. 1 (one) of said court on the pages above mentioned.

In testimony whereof I have hereunto set my hand and [SEAL.] affixed the seal of the above-entitled court this ninth day of November, A. D. 1893.

OSCAR GIBSON, *Clerk.*

In the District Court of the Fourth Judicial District of the Territory of Arizona in and for the County of Coconino, March Term, 1894, March 13th, 1894.

JACOB BARTH, Charged to JULIA BARTH by Order, *vs.* APACHE COUNTY. } Order Transferring Case to Yavapai County.

Filed March 30th, 1896, by A. J. Herndon. Filed in dist. co., Maricopa Co., May 6th, 1898. J. E. Walker.

117 It is by this court ordered that the transfer of this cause heretofore made to the third judicial district for trial be set aside, and upon stipulation of counsel this day filed—

It is ordered that said cause be transferred to Yavapai county, to be tried by Chief Justice A. C. Baker, and it is further ordered that the clerk transmit a copy of this order, together with a copy of the stipulations, to the clerk of the district court, at Phoenix, Maricopa county, with the request to return the papers and files in the said cause, and when so returned transmit them to Prescott in accordance herewith.

TERRITORY OF ARIZONA, }
County of Coconino. }

I, Oscar Gibson, clerk of the district court of the fourth judicial district, Territory of Arizona, county of Coconino, do hereby certify that the above and foregoing is a full, true, and correct copy of an order entered in the above-entitled court on the 13th day of March, 1894, at page 387 of Court Record No. 1, records of Coconino county, Arizona.

In testimony whereof I have hereunto set my hand [SEAL.] and affixed the seal of the said court this 22nd day of August, 1895.

OSCAR GIBSON,
Clerk District Court.

118 In the District Court of the Fourth Judicial District of the Territory of Arizona in and for Yavapai County.

JULIA BARTH, as Executrix of the Will of Jacob Barth, Deceased, Plaintiff,
vs.
APACHE COUNTY, Defendant.
} Amended Complaint.

Dist. co., Yavapai county. Filed March 30th, 1896. Filed May 6th, 1896, in dist. co., Maricopa Co.

The plaintiff, by and with the leave of the court for this purpose first had and obtained, for an amended complaint herein, says, a first cause of action:

1.

That at St. Johns, the county-seat of Apache county, in the Territory of Arizona, on or about July 10th, 1884, said county being justly indebted to Julius Becker in the sum of sixty-nine dollars and fifty cents, which indebtedness was at that time due and unpaid, the board of supervisors of said county, then being in regular session, did duly audit, find, allow, adjudge, and determine that there was due to the said Julius Becker in the premises, from said county, the sum of sixty-nine dollars and fifty cents to be paid on account of the said indebtedness, and thereupon, to wit, on July 13th, 1884, the said board did allow, draw, and issue to the said Julius Becker a certain warrant of said county, numbered 17, signed by Luther Martin as and the then chairman of said board, and countersigned by Charles Kinnear as and the then clerk of
119 said board, which warrant commanded the treasurer of said county to pay to the said Julius Becker or order the sum of sixty-nine dollars and fifty cents out of the road fund of said treasury, a true copy of which warrant, with all endorsements thereon, is hereto attached, marked "Exhibit No. 1," and made a part hereof.

2.

That afterwards and on July 13th, 1884, said warrant was by the then holder thereof duly presented to the treasurer of said county and payment thereof demanded, and which demand and payment was by the treasurer refused; that said treasurer then and there endorsed upon said warrant the following words, to wit: "Not paid for want of funds," and annexed thereto the date of said presentation and signed his name thereto, all of which will more fully appear by reference to said "Exhibit No. 1."

3.

That in the year 1884 and after said warrant was presented to and endorsed, as aforesaid, by said treasurer, said warrant was by the said Julius Becker, for a valuable consideration, sold, transferred, and delivered to one Sol. Barth, who thereupon and for a valuable consideration sold, transferred, and delivered the same to said Jacob Barth, who then became and ever since then to and until the

date of his death hereinafter mentioned was the owner and holder of said warrant.

4.

That in and by said presentation to and endorsement, as aforesaid, by said treasurer the said warrant became, was, and is entitled to preference as to payment out of moneys in said treasury ap-
120 propriated to and belonging to said fund according to the priority of time in which the same was presented, as aforesaid, over other warrants on said fund; that said treasurer has not at any time since said warrant was so, as aforesaid, presented and endorsed by said treasurer, set apart any money nor so much as may be necessary for the payment of said warrant or any part thereof; that there has not been at any time since then nor is there now any moneys set apart in the said treasury applicable to the payment of said warrant or any part thereof.

5.

That afterwards and on or about the fifth day of April, 1887, the defendant's board of supervisors, under and by virtue of chapter 2, title XXXI, of the Revised Statutes of Arizona, 1887, duly decided to fund and redeem all its outstanding indebtedness; and thereupon said board gave due notice that the said board would fund and pay in bonds all outstanding indebtedness of said county, including said warrant; and thereupon and within the time limited in said notice, to wit, on January 9th, 1888, said Jacob Barth caused said warrant, among others, to be presented to said board for approval, redemption, and funding under said notice and law; but the said warrant or any part thereof the said board and said defendant failed and refused and still fails and refuses to approve, redeem, or fund.

6.

That said defendant has at all times neglected and refused and now does neglect and refuse by levy of taxes, by setting apart of funds, by redemption, by funding or otherwise, to pay or provide for the payment of said warrant or any part thereof.

121 7.

That at the time of the commencement of this action the said Jacob Barth was a resident of the city of Grand Rapids, county of Kent, State of Michigan; that the defendant was during all the times hereinafter mentioned, ever since continuously has been, and is now a body politic and corporate within the Territory of Arizona.

8.

That on the fifth day of January, 1892, the said Jacob Barth, at said Grand Rapids, died, leaving a will whereby he appointed the plaintiff sole executrix thereof; that on the 8th day of February, 1892, said will was duly proved and admitted to probate in the probate court of said county of Kent; that a copy of said will so proved and ad-

mitted and allowed to probate, as aforesaid, and together with the probate thereof duly authenticated, was by said executrix presented on the 17th day of February, 1896, to the probate court of the county of Yavapai, in said Territory, and thereafter, to wit, on the second day of March, 1896, the said copy of the said will and the probate thereof aforesaid was duly proved and allowed by the probate court last aforesaid, and that thereupon, on the 30th day of March, 1896, letters testamentary were duly issued and granted by the probate court of said Yavapai county to the plaintiff, who thereupon duly qualified and entered upon her duties as such executrix; which said letters ever since have been and are now in full force and unrevoked.

9.

That on the 30th day of March, 1896, this court duly made
122 and entered an order reviving the action in which this amended complaint is filed and continued the same in the name of this plaintiff.

10.

That the plaintiff is the owner and holder of said warrant, and that there is now due plaintiff thereon the sum of sixty-nine dollars and fifty cents, together with interest thereon, at the rate of ten per cent. per annum, from July 13th, 1884, until paid.

For a second cause of action plaintiff alleges:

1.

That at St. Johns, the county-seat of Apache county, in the Territory of Arizona, on or about August 5th, 1884, said county being then justly indebted to A. M. Boyer in the sum of seventy-seven dollars and fifty cents, which indebtedness was at that time due and unpaid, the board of supervisors of said county, being then in regular session, did duly audit, find, allow, adjudge, and determine that there was due to the said A. M. Boyer in the premises from said county the sum of seventy-seven dollars — ($77.50), to be paid on account of said indebtedness; and thereupon, to wit, on August 6th, 1884, the said board did allow, draw, and issue to the said A. M. Boyer a certain warrant of said county, numbered 159, signed by Luther Martin as and the then chairman of said board, and countersigned by Charles Kinnear as and the then clerk of said board, which warrant commanded the treasurer of said county to pay to the said A. M. Boyer or order the sum of seventy-seven dollars and fifty cents ($77.50) out of the general fund of said
123 treasury, a true copy of which said warrant, with all endorsements thereon, is hereto attached, marked "Exhibit No. 2," and made a part hereof.

2.

That afterwards and on August 6th, 1884, said warrant was by the then holder thereof duly presented to the treasurer of said county and payment thereof demanded, which demand and payment was

by the said treasurer refused; that said treasurer then and there endorsed upon said warrant the following words, to wit: "Not paid for want of funds," and annexed thereto the date of said presentation and signed his name thereto, all of which will more fully appear by reference to said Exhibit No. 2.

3.

That in the year 1884, and after said warrant was presented to and endorsed, as aforesaid, by said treasurer, said warrant was by the said A. M. Boyer, for a valuable consideration, sold, transferred, and delivered to M. Barth, who thereupon and then and for a valuable consideration sold, transferred, and delivered the same to said Jacob Barth, who then became and ever since then to and until the date of his death, hereinafter mentioned, was the holder and owner of said warrant.

4.

That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs of this cause of action the plaintiff, in consideration of convenience and to save prolixity, hereby refers to the like numbered paragraphs of the first cause of action herein and makes the same a part hereof, reference being thereunto had and made at all times with the same force and effect as if the said numbered paragraphs of said
124 first cause were written at length herein.

10.

That the plaintiff is the owner and holder of said warrant; that there is now due and unpaid thereon the sum of $77.50 and interest thereon, at the rate of ten per cent. per annum, from August 6th, 1884.

For a third cause of action plaintiff alleges:

1.

That at St. Johns, the county seat of Apache county, in the Territory of Arizona, on or about August 5th, 1884, said county being then justly indebted to M. Barth in the sum of one hundred and thirty dollars ($130.00), which indebtedness was at that time due and unpaid, the board of supervisors of said county, being then in regular session, did duly audit, find, allow, adjudge, and determine that there was due to the said M. Barth in the premises from said county the sum of one hundred and thirty dollars ($130.00), to be paid on account of said indebtedness; and thereupon, to wit, on August 6th, 1884, the said board did allow, draw, and issue to the said M. Barth a certain warrant of said county, numbered 160, signed by Luther Martin as and the then chairman of said board, and countersigned by Charles Kinnear as and the then clerk of said board, which warrant commanded the treasurer of said county to pay to the said M. Barth or order the sum of $130.00 out of the general fund of said treasury, a true copy of which said warrant,

with all endorsements thereon, is hereto attached, marked "Exhibit No. 3," and made a part hereof.

2.

That afterwards and on ——— —, 1884, said warrant was by
125 the then holder thereof duly presented to the treasurer of said county and payment thereof demanded, which demand and payment was by the said treasurer refused; that said treasurer then and there endorsed upon said warrant the following words, to wit: "Not paid for want of funds," and annexed thereto the date of said presentation and signed his name thereto, all of which will more fully appear by reference to said exhibit numbered 3.

3.

That in the year 1884, and after said warrant was presented to and endorsed, as aforesaid, by said treasurer, said warrant was by the said M. Barth, for a valuable consideration, sold, transferred, and delivered to said Jacob Barth, who then became and ever since then to and until the date of his death, hereinafter mentioned, was the owner and holder of said warrant.

That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs of this cause of action the plaintiff, in consideration of convenience and to save prolixity, hereby refers to the like numbered paragraphs of the first cause of action herein and makes the same a part hereof, reference being thereunto at all times had and made with the same force and effect as if said numbered paragraphs of said first cause were written at length herein.

10.

That the plaintiff is the owner and holder of said warrant; that there is now due and unpaid thereon the sum of $130.00 and interest thereon, at the rate of ten per cent. per annum, from August 6th, 1884.

126 And for a fourth cause of action plaintiff alleges:

1.

That at St. Johns, the county-seat of Apache county, in the Territory of Arizona, on or about August 5th, 1884, said county being then justly indebted to J. H. Wilson in the sum of one hundred and thirty-seven dollars ($137.00), which indebtedness was at that time due and unpaid, the board of supervisors of said county, being then in regular session, did duly audit, find, allow, adjudge, and determine that there was due to the said J. H. Wilson in the premises from said county the sum of $137.00, to be paid on account of said indebtedness; and thereupon, to wit, on August 6th, 1884, the said board did allow, draw, and issue to the said J. H. Wilson a certain warrant of said county, numbered 156, signed by Luther Martin as and the then chairman of said board of supervisors, and countersigned by Charles Kinnear as and the then clerk of said board, which

warrant commanded the treasurer of said county to pay to the said J. H. Wilson or order the sum of $137.00 out of the general fund of said treasury, a true copy of which said warrant, with all endorsements thereon, is hereto attached, marked "Exhibit No. 4," and made a part hereof.

2.

That afterwards and on August 6th, 1884, said warrant was by the then holder thereof duly presented to the treasurer of said county and payment thereof demanded, which demand and payment was by the said treasurer refused; that said treasurer then and there endorsed upon said warrant the following words, to wit:
"Not paid for want of funds," and annexed thereto the date
127 of said presentation and signed his name thereto, all of which will more fully appear by reference to said Exhibit No. 4.

3.

That in the year 1884, and after said warrant was presented to and endorsed, as aforesaid, by said treasurer, said warrant was by the said J. H. Wilson, for a valuable consideration, sold, transferred, and delivered to Morris Barth, who thereupon and then and for a valuable consideration sold, transferred, and delivered the same to said Jacob Barth, who then became and ever since then to and until the date of his death, hereinafter mentioned, was the holder and owner of said warrant.

That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs of this cause of action the plaintiff, in consideration of convenience and to save prolixity, hereby refers to the like numbered paragraphs of the first cause of action herein and makes the same a part hereof, reference being thereunto had and made at all times with the same force and effect as if the said numbered paragraphs of said first cause were written at length herein.

10.

That the plaintiff is the owner and holder of said warrant, and that there is now due and unpaid thereon the sum of $137.00 and interest thereon, at the rate of ten per cent. per annum, from August 6th, 1884.

For a fifth cause of action plaintiff alleges:

1.

That at St. Johns, the county-seat of Apache county, in the Territory of Arizona, on or about the 5th of August, 1884, said
128 county being then justly indebted to T. J. Shuflin in the sum of one hundred and seventy-five dollars, which indebtedness was at that time due and unpaid, the board of supervisors of said county, being then in regular session, did duly audit, find, allow, adjudge, and determine that there was due to the said T. J. Shuflin in the premises from said county the sum of one hundred

and seventy-five dollars ($175.00), to be paid on account of said indebtedness; and thereupon, to wit, on August 6th, 1884, the said board did allow, draw, and issue to the said T. J. Shuflin a certain warrant of said county, numbered one hundred and fifty-seven (157), signed by Luther Martin as and then then chairman of said board, and countersigned by Charles Kinnear as and the then clerk of said board, which warrant commanded the treasurer of said county to pay to the said T. J. Shuflin or order the sum of $175 out of the general fund of said treasury, a true copy of which said warrant, with all endorsements thereon, is hereto attached, marked "Exhibit No. 5," and made a part hereof.

2.

That afterwards and on August 6th, 1884, said warrant was by the then holder thereof duly presented to the treasurer of said county and payment thereof demanded, which demand and payment was by the said treasurer refused; that the said treasurer then and there endorsed upon said warrant the following words, to wit: "Not paid for want of funds," and annexed thereto the date of said presentation and signed his name thereto, all of which will more fully appear by reference to said Exhibit No. 5.

3.

That in the year 1884, and after said warrant was presented
129 to and endorsed, as aforesaid, by said treasurer, said warrant was by the said T. J. Shuflin, for a valuable consideration, sold, transferred, and delivered to M. Barth, who thereupon and then, and for a valuable consideration, sold, transferred, and delivered the same to said Jacob Barth, who then became and ever since then to and until the date of his death, hereinafter mentioned, was the holder and owner of said warrant.

That as and for the 4th, 5th, 6th, 7th, 8th, and 9th, and 10th paragraphs of this cause of action the plaintiff, in consideration of convenience and to save prolixity, hereby refers to the like numbered paragraphs of the first cause of action herein and makes the same a part hereof, reference being thereunto had and made at all times with the same force and effect as if the said numbered paragraphs of said first cause were written at length herein.

10th.

That the plaintiff is the owner and holder of said warrants, and that there is now due and unpaid thereon the sum of $175.00 and interest thereon, at the rate of ten per cent. per annum, from August 6th, 1884.

And for a sixth cause of action plaintiff alleges:

1.

That at St. Johns, the county-seat of Apache county, in the Territory of Arizona, on or about August 5th, 1884, said county being

then justly indebted to Houck & McDonald in the sum of one hundred and twenty-one dollars ($121), which indebtedness was at that time due and unpaid, and the board of supervisors of said county, being then in regular session, did duly audit, find
130 allow, adjudge, and determine that there was due to the said Houck & McDonald in the premises from said county the sum of one hundred and twenty-one dollars ($121.00) to be paid on account of said indebtedness; and thereupon, to wit, on August 6th, 1884, the said board did allow, draw, and issue to the said Houck & McDonald a certain warrant of said county numbered 158, signed by Luther Martin as and then the chairman of said board, and countersigned by Charles Kinnear as and then the clerk of said board, which warrant commanded the treasurer of said county to pay to the said Houck & McDonald or order the sum of one hundred and twenty-one dollars ($121.00) out of the general fund of said treasury, a true copy of which said warrant, with all endorsements thereon, is hereto attached, marked Exhibit No. 6, and made a part hereof.

2.

That afterwards and on August 6th, 1884, said warrant was by the then holder thereof duly presented to the treasurer of said county and payment thereof demanded, and which demand and payment was by said treasurer refused; that said treasurer then and there endorsed upon said warrant the following words: "Not paid for want of funds," and annexed thereto the date of said presentation, and signed his name thereto, all of which will more fully appear by reference to said exhibit numbered 6.

3.

That in the year 1884 and after said warrant was presented to and endorsed, as aforesaid, by said treasurer, said warrant was by the said Houck & McDonald for a valuable consideration sold,
131 transferred, and delivered to M. Barth, who for a valuable consideration thereupon and then sold, transferred, and delivered the same to said Jacob Barth, who then became and ever since to and until the date of his death, hereinafter mentioned, was the owner and holder of said warrant.

That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs of this cause of action, plaintiff, in consideration of convenience and to save prolixity, hereby refers to the like numbered paragraphs of the first cause of action herein, and makes the same a part hereof, reference being thereunto had and made at all times with the same force and effect as if said numbered paragraphs of said first cause of action were herein written at length.

10.

That the plaintiff is the owner and holder of said warrant; that there is now due and unpaid thereon the sum of $121 and interest thereon, at the rate of ten per cent. per annum, from August 6th, 1884.

For seventh cause of action plaintiff alleges:

1.

That at St. Johns, the county-seat of Apache county, in the Territory of Arizona, on or about August 5th, 1884, said county being then justly indebted to A. B. Lambson in the sum of two hundred and eighty-four dollars ($284.00), which indebtedness was at that time due and unpaid, and the board of supervisors of said county, being then in regular session, did duly audit, find, allow, adjudge, and determine that there was due to the said A. B. Lambson in the premises from said county the sum of two hundred and
132 eighty-four dollars ($284.00) to be paid on account of said indebtedness; and thereupon, to wit, on August 6th, 1884, the said board did allow, draw, and issue to the said A. B. Lambson a certain warrant of said county numbered 19, signed by Luther Martin as and then the chairman of said board, and countersigned by Charles Kinnear as and the then clerk of said board, which warrant commanded the treasurer of said county to pay to the said A. B. Lambson or order the sum of two hundred and eighty-four dollars ($284.00) out of the general fund of said treasury, a true copy of which said warrant, with all endorsements thereon, is hereto attached, marked Exhibit No. 7, and made a part hereof.

2.

That afterwards and on August 6th, 1884, said warrant was by the then holder thereof duly presented to the treasurer of said county and payment thereof demanded, and which demand and payment was by said treasurer refused; that said treasurer then and there endorsed upon said warrant the following words: "Not paid for want of funds," and annexed thereto the date of said presentation and signed his name thereto, all of which will more fully appear by reference to said exhibit numbered 7.

3.

That in the year 1884 and after said warrant was presented to and endorsed, as aforesaid, by said treasurer, said warrant was by the said A. B. Lambson, as A. L. Lambson, for a valuable consideration sold, transferred, and delivered *the same* to M. Barth, who for a valuable consideration thereupon and then sold, transferred, and delivered the same to said Jacob Barth, who then be-
133 came and ever since to and until the date of his death, hereinafter mentioned, was the owner and holder of said warrant.

That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs of this cause of action, plaintiff, in consideration of convenience and to save prolixity, hereby refers to the like numbered paragraphs of the first cause of action herein and makes the same a part hereof, reference being thereunto had and made at all times with the same force and effect as if said numbered paragraphs of said first cause of action were herein written at length.

10.

That the plaintiff is the owner and holder of said warrant; that there is now due and unpaid thereon the sum of two hundred and eighty-four dollars ($284.00) and interest thereon, at the rate of ten per cent. per annum, from August 6th, 1884.

For eighth cause of action plaintiff alleges:

1.

That at St. Johns, the county-seat of Apache county, in the Territory of Arizona, on or about August 13th, 1884, said county being then justly indebted to John Nicholson in the sum of fifty-eight dollars ($58), and which indebtedness was at that time due and unpaid, and the board of supervisors of said county, being then in regular session, did duly audit, find, allow, adjudge, and determine that there was due to the said John Nicholson in the premises from said county the sum of fifty-eight dollars ($58.00), to be paid on account of said indebtedness, and thereupon, to wit, on August
134 14th, 1884, the said board did allow, draw, and issue to the said John Nicholson a certain warrant of said county numbered 214, signed by Luther Martin as and then the chairman of said board, and countersigned by Charles Kinnear as and the then clerk of said board, which warrant commanded the treasurer of said county to pay to the said John Nicholson or order the sum of 858.00 out of the general fund of said treasury, a true copy of which said warrant, with all endorsements thereon, is hereto attached, marked Exhibit No. 8, and made a part hereof.

2.

That afterwards and on August 15th, 1884, said warrant was by the then holder thereof duly presented to the treasurer of said county and payment thereof demanded, and which demand and payment was by said treasurer refused; that said treasurer then and there endorsed upon said warrant the following words: "Not paid for want of funds," and annexed thereto the date of said presentation and signed his name thereto, all of which will more fully appear by reference to said exhibit numbered 8.

3.

That in the year 1884 and after said warrant was presented to and endorsed, as aforesaid, by said treasurer, said warrant was by the said John Nicholson, for a valuable consideration, sold, transferred, and delivered to Sol. Barth, who, for a valuable consideration, thereupon and then sold, transferred, and delivered the same to said Jacob Barth, who then became and ever since to and until the date of his death, hereinafter mentioned, was the owner and holder of said warrant.

135 That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs of this cause of action, plaintiff, in consideration of convenience and to save prolixity, hereby refers to the like num-

bered paragraphs of the first cause of action herein and makes the same a part hereof, reference being thereunto had and made at all times with the same force and effect as if said numbered paragraphs of said first cause of action were herein written at length.

10.

That the plaintiff is the owner and holder of said warrant, and that there is now due and unpaid thereon the sum of $58.00 and interest thereon, at the rate of ten per cent. per annum, from August 15th, 1884.

For a ninth cause of action plaintiff alleges:

1.

That at St. Johns, the county seat of Apache county, in the Territory of Arizona, on or about October 7th, 1884, said county being then justly indebted to E. D. Johnson in the sum of ninety-six dollars ($96.00), which indebtedness was at that time due and unpaid, the board of supervisors of said county, being then in regular session, did duly audit, find, allow, adjudge, and determine that there was due to said E. D. Johnson in the premises from said county the sum of ninety-six dollars ($96.00), to be paid on account of said indebtedness; and thereupon, to wit, on October 8th, 1884, the said board did allow, draw, and issue to the said E. D. Johnson a certain warrant of said county numbered 233, signed by Luther Martin as and the then chairman of said board, and countersigned by Charles Kinnear as and the then clerk of said board, which warrant
136 commanded the treasurer of said county to pay to the said E. D. Johnson or order the sum of ninety-six dollars ($96.00) out of the general fund of said treasury, a true copy of which said warrant, with all endorsements thereon, is hereto attached, marked Exhibit No. 9, and made a part hereof.

2.

That afterwards and on October 9th, 1884, said warrant was by the then holder thereof duly presented to the treasurer of said county and payment thereof demanded, and which demand and payment was by the said treasurer refused; that said treasurer then and there endorsed upon said warrant the following words, to wit: "Not paid for want of funds," and annexed thereto the date of said presentation, and signed his name thereto, all of which will more fully appear by reference to said exhibit numbered 9.

3.

That in the year 1884 and after said warrant was presented to and endorsed by said treasurer, as aforesaid, said warrant was by the said E. D. Johnson, for a valuable consideration, sold, transferred, and delivered to Sol. Barth, who thereupon and then, for a valuable consideration, sold, transferred, and delivered the same to the said Jacob Barth, who then became and ever since then to and

until the date of his death, hereinafter mentioned, was the owner and holder of said warrant.

That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs of this cause of action, the plaintiff, in consideration of convenience and to save prolixity, hereby refers to the like numbered paragraphs of the first cause of action herein, reference being thereunto had and made at all times with the same force and effect as if said numbered paragraphs of said first cause were written at length herein.

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10.

That the plaintiff is the owner and holder of said warrant; that there is now due and unpaid thereon the sum of $96.00 and interest thereon, at the rate of ten per cent. per annum, from October 9th, 1884.

For a tenth cause of action plaintiff alleges:

1.

That at St. Johns, the county-seat of Apache county, in the Territory of Arizona, on or about October 7th, 1884, said county being then justly indebted to Thos. Perez in the sum of nine hundred dollars ($900.00), which indebtedness was at that time due and unpaid, the board of supervisors of said county, being then in regular session, did duly audit, find, allow, adjudge, and determine that there was due to said Thos. Perez in the premises, from said county, the sum of $900.00 to be paid on account of said indebtedness; and thereupon, to wit, on October 8th, 1884, the said board did allow, draw, and issue to the said Thos. Perez a certain warrant of said county numbered 254, signed by Luther Martin as and the then chairman of said board, and countersigned by Charles Kinnear as and the then clerk of said board, which warrant commanded the treasurer of said county to pay to the said Thos. Perez or order the sum of $900.00 out of the general fund of said treasury, a true copy of which said warrant, with all endorsements thereon, is hereto attached, marked "Exhibit No. 10," and made a part hereof.

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2.

That afterwards and on November 7th, 1884, said warrant was by the then holder thereof duly presented to the treasurer of said county and payment thereof demanded, and which demand and payment was by the said treasurer refused; that said treasurer then and there endorsed upon said warrant the following words, to wit: "Not paid for want of funds," and annexed thereto the date of said presentation and signed his name thereto, all of which will more fully appear by reference to said exhibit numbered 10.

3.

That in the year 1884 and after said warrant was presented to and endorsed by said treasurer, as aforesaid, said warrant was by the said Thomas Perez, for a valuable consideration, sold, transferred,

and delivered to Sol. Barth, who thereupon and then, for a valuable consideration, sold, transferred, and delivered the same to said Jacob Barth, who then became and ever since then to and until the time of his death, hereinafter mentioned, was the owner and holder of said warrant.

That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs of this cause of action the plaintiff, in consideration of convenience and to save prolixity, hereby refers to the like numbered paragraphs of the first cause of action herein, reference being thereunto had and made at all times with the same force and effect as if said numbered paragraphs of said first cause were written at length herein.

139 10.

That the plaintiff is the owner and holder of said warrant; that there is now due and unpaid thereon the sum of $900.00 and interest thereon, at the rate of ten per cent. per annum, from November 7th, 1884.

For an eleventh cause of action plaintiff alleges:

1.

That at St. Johns, the county-seat of Apache county, in the Territory of Arizona, on or about October 8th, 1884, said county being then justly indebted to M. P. Romney in the sum of sixty-six dollars ($66.00), which indebtedness was at that time due and unpaid, the board of supervisors of said county, being then in regular session, did duly audit, find, allow, adjudge, and determine that there was due to the said M. P. Romney in the premises from said county the sum of sixty-six dollars ($66.00), to be paid on account of said indebtedness; and thereupon, to wit, on October 8th, 1884, the said board did allow, draw, and issue to the said M. P. Romney a certain warrant of said county, numbered 230, signed by Luther Martin as and then the chairman of said board, and countersigned by Charles Kinnear as and the then clerk of said board, which warrant commanded the treasurer to pay to the said M. P. Romney or order the sum of sixty-six dollars ($66.00) out of the general fund of said treasury, a true copy of which said warrant, with all the endorsements thereon, is hereto attached, marked Exhibit No. 11, and made a part hereof.

2.

That afterwards and on October 8th, 1884, said warrant
140 was by the then holder thereof duly presented to the treasurer of said county and payment demanded, which demand and payment was by the said treasurer refused; that the said treasurer then and there endorsed upon said warrant the following words in the Spanish language, to wit: "No sepagi pr falto de fundez, Otubre 8, de 1884. Diomcio Baca, teserara, per Rosalie Coloma," which words and figures as translated into the English language *and* were by their endorsement intended to mean the following, to wit: "Not

paid for want of funds. Presented October 8th, 1884. Diomcio Baca, treaserer, per Rosalie Coloma, deputy county treasurer;" all of which will more fully appear by reference to said exhibit numbered 11.

3.

That in the year 1884, and after said warrant was presented to and endorsed, as aforesaid, by said treasurer, said warrant was by said M. P. Romney, for a valuable consideration, sold, transferred, and delivered to Sol. Barth, who thereupon and then and for a valuable consideration sold, transferred, and delivered the same to said Jacob Barth, who then became and ever since then and until the date of his death, hereinafter mentioned, was the holder and owner of said warrant.

That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs of this cause of action the plaintiff, in consideration of and to save prolixity, hereby refers to the like numbered paragraphs of the first cause of action herein, reference being thereunto had and made at all times with the same force and effect as if the said numbered paragraphs of said first cause of action were written at length herein.

141 10th.

That the plaintiff is the holder and owner of said warrant; that there is now due and unpaid therein the sum of $66.00 and interest, at the rate of ten per cent. per annum, from October 8th, 1884.

For a twelfth cause of action plaintiff alleges:

1.

That at St. Johns, the county-seat of Apache county, in the Territory of Arizona, on or about October 7th, 1884, said county being then justly indebted to Sol. Barth in the sum of three hundred and ninety-two dollars ($392.00) which indebtedness was at that time due and unpaid, the board of supervisors, being then in regular session, did duly audit, find, allow, adjudge, and determine that there was due to the said Sol. Barth in the premises from said county the sum of $392.00, to be paid on account of said indebtedness; and thereupon, to wit, on October 8th, 1884, the said board did allow, draw, and issue to the said Sol. Barth a certain warrant of said county, numbered 222, signed by Luther Martin as and the then chairman of said board, and countersigned by Charles Kinnear as and the then clerk of said board, which warrant commanded the treasurer of said county to pay to said Sol. Barth or order the sum of three hundred and ninety-two dollars ($392.00) out of the general fund of said treasury, a true copy of which said warrant, with all endorsements thereon, is hereto attached, marked "Exhibit No. 12," and made a part hereof.

2.

That afterwards and on November 6th, 1884, said warrant
142 was by the then holder thereof duly presented to the treasurer of said county and payment thereof demanded, which demand and payment was by the said treasurer refused; that said treasurer then and there endorsed upon said warrant the following words, to wit: "Not paid for want of funds," and annexed thereunto the date of said presentation and signed his name thereto, all of which will more fully appear by reference to said exhibit numbered 12.

3.

That in the year 1884, and after said warrant was presented to and endorsed, as aforesaid, by said treasurer, said warrant was by the said Sol. Barth, for a valuable consideration, sold, transferred, and delivered to the said Jacob Barth, who then became and ever since then to and until the date of his death, hereinafter mentioned, was the owner and holder of said warrant.

That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs of this cause of action the plaintiff, in consideration of convenience and to save prolixity, hereby refers to the like numbered paragraphs of the first cause of action herein and makes the same a part hereof, reference being thereunto at all times had and made with the same force and effect as if said numbered paragraphs were herein written at length.

10.

That the plaintiff is the owner of and holder of said warrant; that there is now due and unpaid on said warrant the sum of $392 and interest thereon, at the rate of ten per cent. per annum, from November 6th, 1884.

143 For a thirteenth cause of action plaintiff alleges:

1.

That at St. Johns, the county-seat of Apache county, in the Territory of Arizona, on or about October 7th, 1884, said county being then justly indebted to Sol. Barth in the sum of three hundred and thirty dollars ($330.00), which indebtedness was at that time due and unpaid, the board of supervisors of said county, being then in regular session, did duly audit, find, allow, adjudge, and determine that there was due to the said Sol. Barth in the premises from said county the sum of $330.00, to be paid on account of said indebtedness; and thereupon, to wit, on October 8th, 1884, the said board did allow, draw, and issue to the said Sol. Barth a certain warrant of said county, numbered 232, signed by Luther Martin as and the then chairman of said board, and countersigned by Charles Kinnear as and the then clerk of said board, which warrant commanded the treasurer of said county to pay to the said Sol. Barth or order the sum of $330.00 out of the general fund of said treasury, a true copy of which said warrant, with all endorsements thereon, is hereto attached, marked "Exhibit No. 13," and made a part hereof.

2.

That afterwards and on November 7th, 1884, said warrant was by the then holder thereof duly presented to the treasurer of said county and payment thereof demanded, which demand and payment was by the said treasurer refused; that said treasurer then and there endorsed upon said warrant the following words, to wit:

"Not paid for want of funds," and annexed thereunto the date
144 of said presentation and signed his name thereto, all of which will more fully appear by a reference to said exhibit numbered 13.

3.

That in the year 1884, and after said warrant was presented to and endorsed, as aforesaid, by said treasurer, said warrant was by the said Sol. Barth, for a valuable consideration, sold, conveyed, and delivered to said Jacob Barth, who then became and ever since then to and until the time of his death, hereinafter mentioned, was the holder and owner of said warrant.

That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs of this cause of action the plaintiff, in consideration of convenience and to save prolixity, hereby refers to the like numbered paragraphs of the first cause of action herein and makes the same a part hereof, reference being at all times thereunto had and made with the same force and effect as if said numbered paragraphs of said first cause were written at length herein.

10.

That plaintiff is the owner and holder of said warrant; that there is now due and unpaid thereon the sum of $330.00 and interest thereon, at the rate of ten per cent. per annum, from November 7th, 1884.

For a fourteenth cause of action plaintiff alleges:

1.

That at St. Johns, the county-seat of Apache county, in the Territory of Arizona, on or about October 7th, 1884, said county
145 being then justly indebted to John T. Hogue in the sum of thirteen dollars and twenty-five cents, which indebtedness was at that time due and unpaid, the board of supervisors of said county, being then in regular session, did duly audit, find, allow, adjudge, and determine that there was due to the said John T. Hogue in the premises from said county the sum of $13.25, to be paid on account of said indebtedness; and thereupon, to wit, on October 8th, 1884, the said board did allow, draw, and issue to the said John T. Hogue a certain warrant of said county, numbered two — thirty-six (236), signed by Luther Martin as and the then chairman of said board, and countersigned by Charles Kinnear as and the then clerk of said board, which warrant commanded the treasurer of said county to pay to the said John T. Hogue or order the sum of $13.25 out of the general fund of said treasury, a true copy of which said warrant,

with all endorsements thereon, is hereto attached, marked "Exhibit No. 14," and made a part hereof.

2.

That afterwards and on October 8th, 1884, said warrant was by the then holder thereof duly presented to the treasurer of said county and payment thereof demanded, and which demand and payment was by the said treasurer refused; and that said treasurer then and there endorsed upon said warrant the following words, to wit: "Not paid for want of funds," and annexed thereto the date of said presentation and signed his name thereto, all of which will more fully appear by reference to said Exhibit No. 14.

3.

That in the year 1884, and after said warrant was presented
146 to and endorsed, as aforesaid, by said treasurer, said warrant was by the said John T. Hogue, for a valuable consideration, sold, transferred, and delivered to Sol. Barth, who thereupon and then, for a valuable consideration, sold, transferred, and delivered the same to said Jacob Barth, who then became and ever since then to and until the date of his death, hereinafter mentioned, was the owner and holder of said warrant.

That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs of this cause of action the plaintiff, in consideration of convenience and to save prolixity, hereby refers to the like numbered paragraphs of the first cause of action herein, reference being thereunto at all times had and made with the same force and effect as if the said numbered paragraphs of said first cause were written at length herein.

10.

That the plaintiff is the owner and holder of said warrant; that there is now due and unpaid thereon the sum of $13.25 and interest thereon, at the rate of ten per cent. per annum, from October 8th, 1884.

For a fifteenth cause of action plaintiff alleges:

1.

That at St. Johns, the county-seat of Apache county, in the Territory of Arizona, on or about October 7th, 1884, said county being then justly indebted to Chas. Kinnear in the sum of one hundred and eighty-seven dollars, and which indebtedness was at that time due and unpaid, the board of supervisors of said county, being then in regular session, did duly audit, find allow, adjudge, and determine that there was due to the said Chas. Kinnear
147 in the premises from said county the sum of one hundred and eighty-seven dollars ($187.00), to be paid on account of said indebtedness; and thereupon, to wit, on October 8th, 1884, the said board did allow, draw, and issue to the said Chas. Kinnear a certain warrant of said county, numbered 245, signed by Luther

Martin as and the then chairman of said board, and countersigned by Chas. Kinnear as and the then clerk of said board, which warrant commanded the treasurer of said county to pay to the said Chas. Kinnear or order the sum of $187 out of the general fund of said treasury, a true copy of which said warrant, with all endorsements thereon, is hereto attached, and marked "Exhibit No. 15," and made a part hereof.

2.

That afterwards and on October 8th, 1884, said warrant was by the then holder thereof duly presented to the treasurer of said county and payment thereof demanded, and which demand and payment was by the said treasurer refused; that said treasurer then and there endorsed upon said warrant the following words, to wit: "Not paid for want of funds," and annexed thereto the date of said presentation and signed his name thereto, all of which will more fully appear by reference to said Exhibit No. 15.

3.

That in the year 1884, and after said warrant was presented to and endorsed, as aforesaid, by said treasurer, said warrant was by the said Chas. Kinnear, for a valuable consideration, sold, transferred, and delivered to Sol. Barth, who thereupon and then, for a
148 valuable consideration, sold, transferred, and delivered the same to said Jacob Barth, who then became and ever since then to and until the date of his death, hereinafter mentioned, was the owner and holder of said warrant.

That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs of this cause of action the plaintiff, in consideration of convenience and to save prolixity, hereby refers to the like numbered paragraphs of the first cause of action herein, reference being thereunto at all times had and made with the same force and effect as if the said numbered paragraphs of said first cause were written at length herein.

10.

That the plaintiff is the owner and holder of said warrant; that there is now due and unpaid thereon the sum of $187.00 and interest thereon, at the rate of ten per cent. per annum, from October 8th, 1884.

For a sixteenth cause of action plaintiff alleges:

1.

That at St. Johns, the county-seat of Apache county, in the Territory of Arizona, on or about October 7th, 1884, said county being then justly indebted to A. Gonzales in the sum of ninety-eight dollars ($98.00), which indebtedness was at that time due and unpaid, the board of supervisors of said county, being then in regular session, did duly audit, find, allow, adjudge, and determine that there was due to said A. Gonzales in the premises from said county the sum of ninety-eight — ($98.00), to be paid on account of said

indebtedness; and thereupon, to wit, on October 8th, 1884, the said board did allow, draw, and issue to the said A. Gonzales a certain warrant of said county, numbered 238, signed by Luther Martin as and the then chairman of said board, and counter-
149 signed by Chas. Kinnear as and the then clerk of said board, which warrant commanded the treasurer of said county to pay to the said A. Gonzales or order the sum of $98.00 out of the general fund of said treasury, a true copy of which said warrant, with all endorsements thereon, is hereto attached, marked "Exhibit No. 16," and made a part hereof.

2.

That afterwards and on October 9th, 1884, said warrant was by the then holder thereof duly presented to the treasurer of said county and payment thereof demanded, and which demand and payment was by the said treasurer refused; that said treasurer then and there endorsed upon said warrant the following words, to wit: "Not paid for want of funds," and annexed thereto the date of said presentation and signed his name thereto, all of which will more fully appear by reference to said exhibit numbered 16.

3.

That in the year 1884, and after said warrant was presented to and endorsed by said treasurer, as aforesaid, said warrant was by the said Antonio Gonzales, for a valuable consideration, sold, transferred, and delivered *the same* to M. Barth, who thereupon and then, for a valuable consideration, sold, transferred, and delivered the same to said Jacob Barth, who then became and ever since then to and until the time of his death, hereinafter mentioned, was the owner and holder of said warrant.

That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs of this cause of action the plaintiff, in consideration of convenience
150 and to save prolixity, hereby refers to the like numbered paragraphs of the first cause of action herein, reference being thereunto had and made at all times with the same force and effect as if said numbered paragraphs of said first cause were written at length herein.

10.

That the plaintiff is the owner and holder of said warrant; that there is now due and unpaid thereon the sum of $98.00 and interest thereon, at the rate of ten per cent. per annum, from October 9th, 1884.

For a seventeenth cause of action plaintiff alleges:

1.

That at St. Johns, the county seat of Apache county, in the Territory of Arizona, on or about October 7th, 1884, said county being then justly indebted to A. D. McIntosh in the sum of thirty dollars ($30.00), which indebtedness was at that time due and un-

paid, the board of supervisors of said county, being then in regular session, did duly audit, find, allow, adjudge, and determine that there was due to the said A. D. McIntosh in the premises from said county the sum of thirty dollars ($30.00), to be paid on account of said indebtedness, and thereupon, to wit, on October 8th, 1884, the said board did allow, draw, and issue to the said A. D. McIntosh a certain warrant of said county, numbered 29, signed by Luther Martin as and the then chairman of said board, and countersigned by Charles Kinnear as and the then clerk of said board, which warrant commanded the treasurer of Apache county to pay to the said A. D. McIntosh or order the sum of thirty dollars ($30.00) out of the road fund of said treasury, a true copy of which said warrant,
151 with all endorsements thereon, is hereto attached, marked "Exhibit No. 17," and made a part hereof.

2.

That afterwards and on October 8th, 1884, said warrant was by the then holder thereof duly presented to the treasurer of said county and payment thereof demanded, which demand and payment was by the said treasurer refused; that said treasurer then and there endorsed upon said warrant the following words, to wit: "Not paid for want of funds," and annexed thereto the date of said presentation and signed his name thereto, all of which will more fully appear by reference to said Exhibit No. 17.

3.

That in the year 1884, and after said warrant was presented to and endorsed, as aforesaid, by said treasurer, said warrant was by the said A. D. McIntosh, for a valuable consideration, sold, transferred, and delivered to N. Barth, who thereupon and then, for a valuable consideration, sold, transferred, and delivered the same to said Jacob Barth, who then became and ever since then to and until the date of his death, hereinafter mentioned, was the owner and holder of said warrant.

That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs of this cause of action the plaintiff, in consideration of convenience and to save prolixity, hereby refers to the like numbered paragraphs of the first cause of action herein and makes the same a part hereof, reference being thereunto at all times had and made with the same force and effect as if said numbered paragraphs of said first cause were written at length herein.

10.

That the plaintiff is the owner and holder of said warrant;
152 that there is now due and unpaid thereon the sum of $30.00 and interest thereon, at the rate of ten per cent. per annum, from October 8th, 1884.

For an eighteenth cause of action plaintiff alleges:

1.

That at St. Johns, the county seat of Apache county, in the Territory of Arizona, on or about October 7th, 1884, said county being then justly indebted to William Lewis in the sum of four hundred dollars ($400.00), which indebtedness was at that time due and unpaid, the board of supervisors of said county, being then in regular session, did duly audit, find, allow, adjudge, and determine that there was due to the said William Lewis in the premises from said county the sum of four hundred dollars ($400.00), to be paid on account of said indebtedness; and thereupon, to wit, on October 8th, 1884, the said board did allow, draw, and issue to the said William Lewis a certain warrant of said county, numbered thirty-one (31), signed by Luther Martin as and the then chairman of said board, and countersigned by Charles Kinnear as and the then clerk of said board, which warrant commanded the treasurer of Apache county to pay to the said William Lewis or order the sum of four hundred dollars ($400.00) out of the road fund of said treasury, a true copy of which said warrant, with all endorsements thereon, is hereto attached, marked "Exhibit No. 18," and made a part hereof.

2.

That afterwards and on October 8th, 1884, said warrant was by the then holder thereof duly presented to the treasurer of said
153 county and payment thereof demanded, which demand and payment was by the said treasurer refused; that said treasurer then and there endorsed upon said warrant the following words, to wit: "Not paid for want of funds," and annexed thereto the date of said presentation, and signed his name thereto, all of which will more fully appear by reference to said Exhibit No. 18.

3.

That in the year 1884, and after said warrant was presented to and endorsed, as aforesaid, by said treasurer, said warrant was by the said William Lewis, for a valuable consideration, sold, transferred, and delivered to M. Barth, who thereupon and then, for a valuable consideration, sold, transferred, and delivered the same to said Jacob Barth, who then became and ever since then to and until the date of his death, hereinafter mentioned, was the owner and holder of said warrant.

That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs of this cause of action the plaintiff, in consideration of convenience and to save prolixity, hereby refers to the like numbered paragraphs of the first cause of action herein and makes the same a part hereof, reference being thereunto at all times had and made with the same force and effect as if said numbered paragraphs of said first cause were written at length herein.

10.

That the plaintiff is the owner and holder of said warrants; that there is now due and unpaid thereon the sum of $400 and interest thereon, at the rate of ten per cent. per annum, from October 8th, 1884.

154 For a nineteenth cause of action plaintiff alleges:

1.

That at St. Johns, the county-seat of Apache county, in the Territory of Arizona, on or about October 7th, 1884, said county being then justly indebted to Wm. M. Rudd in the sum of one hundred and seventy-four dollars ($174.00), and which indebtedness was at that time due and unpaid, the board of supervisors of said county, being then in regular session, did duly audit, find, allow, adjudge, and determine that there was due to the said Wm. M. Rudd in the premises from said county the sum of one hundred and seventy-four dollars ($174.00), to be paid on account of said indebtedness; and thereupon, to wit, on October 8th, 1884, the said board did allow, draw, and issue to the said Wm. M. Rudd a certain warrant of said county, numbered 258, signed by Luther Martin as and the then chairman of said board, and countersigned by Chas. Kinnear as and the then clerk of said board, which warrant commanded the treasurer of Apache county to pay to the said Wm. M. Rudd or order the sum of one hundred and seventy-four dollars ($174.00) out of the general fund of said treasury, a true copy of which said warrant, with all endorsements thereon, is hereto attached, marked "Exhibit No. 19," and made a part hereof.

2.

That afterwards and on October 9th, 1884, said warrant was by the then holder thereof duly presented to the treasurer of said county and payment thereof demanded, which demand and payment was by the said treasurer refused; that said treasurer then and
155 there endorsed upon said warrant the following words, to wit: "Not paid for want of funds," and annexed thereto the date of said presentation and signed his name thereto, all of which will more fully appear by reference to said Exhibit No. 19.

3.

That in the year 1884, and after said warrant was presented to and endorsed, as aforesaid, by said treasurer, said warrant was by the said Wm. M. Rudd, for a valuable consideration, sold, transferred, and delivered to M. Barth, who thereupon and then, for a valuable consideration, sold, transferred, and delivered the same to said Jacob Barth, who then became and ever since then to and until the date of his death, hereinafter mentioned, was the owner and holder of said warrant.

That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs — this cause of action the plaintiff, in consideration of convenience

and to save prolixity, hereby refers to the like numbered paragraphs of the first cause of action herein and makes the same a part hereof, reference being thereunto at all times had and made with the same force and effect as if said numbered paragraphs of said first cause were written at length herein.

10.

That the plaintiff is the owner and holder of said warrant; that there is now due and unpaid thereon the sum of $174.00 and interest thereon, at the rate of ten per cent. per annum, from October 9th, 1884.

For a twentieth cause of action plaintiff alleges:

1.

That at St. Johns, the county-seat of Apache county, in the Territory of Arizona, on or about October 9th, 1884, said county
156 being then justly indebted to J. T. Hogne in the sum of twenty-five dollars ($25.00), which indebtedness was at that time due and unpaid, the board of supervisors of said county, being then in regular session, did duly audit, find, allow, adjudge, and determine that there was due to the said John T. Hogne in the premises from said county the sum of twenty-five dollars ($25.00), to be paid on account of said indebtedness; and thereupon, to wit, on October 9th, 1884, the said board did allow, draw, and issue to the said J. T. Hogne a certain warrant of said county, numbered 261, signed by Luther Martin as and the then chairman of said board, and countersigned by Chas. Kinnear as and the then clerk of said board, which warrant commanded the treasurer of said county to pay to the said J. T. Hogne or order the sum of twenty-five dollars ($25.00) out of the general fund of said treasury, a true copy of which said warrant, with all the endorsements thereon, is hereto attached, marked "Exhibit 20," and made a part hereof.

2.

That afterwards and on October 9th, 1884, said warrant was by the then holder thereof duly presented to the treasurer of said county and payment thereof demanded, and which demand and payment was by the said treasurer refused; that the said treasurer then and there endorsed upon said warrant the following words, to wit: "No sepagi pr falto de fundez, Otubra 8, de 1884. Diomcio Baca, teserara, per Rosalie Coloma," which words and figures as translated into the English language mean and were by their endorsement intended to mean the following, to wit: "Not paid for want of funds. Presented
Octo[b]er 8th, 1884. Diomcio Baca, treasurer, per Rosalie
157 Coloma, deputy county treasurer;" all of which will more fully appear by reference to said exhibit numbered 20.

3.

That in the year 1884, and after said warrant was presented to and endorsed, as aforesaid, by said treasurer, said warrant was by

the said J. T. Hogue, for a valuable consideration, sold, transferred, and delivered to M. Barth, who thereupon and then and for a valuable consideration sold, transferred, and delivered the same to Jacob Barth, who then became and ever since then to and until the date of his death, hereinafter mentioned, was the holder and owner of said warrant.

That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs of this cause of action the plaintiff, in consideration of convenience and to save prolixity, hereby refers to the like numbered paragraphs of the first cause of action herein, reference being thereunto had and made at all times with the same force and effect as if the said numbered paragraphs of said first cause of action were written at length herein.

10.

That the plaintiff is the holder and owner of said warrant; that there is now due and unpaid thereon the sum of $25.00 and interest, at the rate of ten per cent. per annum, from October 9th, 1884.

For a twenty-first cause of action plaintiff alleges:

1.

That at St. Johns, the county-seat of Apache county, in the Territory of Arizona, on or about October 8th, 1884, said county
158 being then justly indebted to Thos. Perez in the sum of five hundred dollars, which indebtedness was at that time due and unpaid, the board of supervisors, being then in regular session, did duly audit, find, allow, adjudge, and determine that there was due to the said Thos. Perez in the premises from said county the sum of five hundred dollars ($500.00), to be paid on account of said indebtedness; and thereupon, to wit, on October 9th, 1884, the said board did allow, draw, and issue to the said Thos. Perez a certain warrant, numbered 263, of said county, signed by Luther Martin as and the then chairman of said board, and countersigned by Charles Kinnear as and the then clerk of said board, which warrant commanded the treasurer of said county to pay to the said Thos. Perez or order the sum of $500 out of the general fund of said treasury, a true copy of which said warrant, with all endorsements thereon, is hereto attached and made a part hereof and marked "Exhibit No. 21."

2.

That afterwards and on December 31st, 1884, said warrant was by the then holder thereof duly presented to the treasurer of said county and payment thereof demanded, which demand and payment was by the said treasurer refused; that the said treasurer then and there endorsed upon said warrant the following words, to wit: "Not paid for want of funds," and annexed thereto the date of said presentation and signed his name thereto, all of which will more fully appear by reference to said exhibit numbered 21.

3.

That in the year 1884, and after said warrant was presented to and endorsed, as aforesaid, by said treasurer, said warrant
159 was by the said Thos. Perez, for a valuable consideration, sold, transferred, and delivered to said Jacob Barth, who then and thereby became and ever since then to and until the date of his death, hereinafter mentioned, was the owner of said warrant.

That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs of this cause of action the plaintiff, in consideration of convenience and to save prolixity, hereby refers to the like numbered paragraphs of the first cause of action herein and makes the same a part hereof, reference being thereunto at all times had and made with the same force and effect as if the said numbered paragraphs of said first cause were herein written at length.

10.

That the plaintiff is the owner and holder of said warrant; that there is now due and unpaid thereon the sum of $500 and interest thereon, at the rate of ten per cent. per annum, from December 31st, 1884.

For a twenty-second cause of action plaintiff alleges:

1.

That at St. Johns, the county-seat of Apache county, in the Territory of Arizona, on or about October 8th, 1884, said county being then justly indebted to Wm. M. Rudd in the sum of four hundred and fifty dollars, and which indebtedness was at that time due and unpaid, the board of supervisors, being then in regular session (supervisors of said county), did duly audit, find, allow, adjudge, and determine that there was due to said Wm. M. Rudd in the premises from said county the sum of four hundred and fifty dollars
160 ($450.00) on account of the said indebtedness; and thereupon, to wit, on October 9th, 1884, the said board did allow, draw, and issue to the said Wm. M. Rudd a certain warrant of said county, numbered 264, signed by Luther Martin as and the then chairman of said board, and countersigned by Chas. Kinnear as the then clerk of said board, which said warrant commanded the treasurer of said county to pay to the said Wm. M. Rudd or order the sum of four hundred and fifty dollars ($450.00) out of the general fund of said treasury, a true copy of which said warrant, with all the endorsements thereon, is hereto attached, marked "Exhibit No. 22."

2.

That afterwards and on December 31st, 1884, said warrant was by the then holder thereof duly presented to the treasurer of said county and payment thereof demanded, which demand and payment was by said treasurer refused; that said treasurer then and there endorsed upon said warrant the following words, to wit: "Not paid

for want of funds," and annexed thereto the date of said presentation and signed his name thereto, all of which will more fully appear by reference to said exhibit numbered 22.

3.

That in the year 1884, and after said warrant was presented to and endorsed, as aforesaid, by said treasurer, said warrant was by the said Wm. M. Rudd, for a valuable consideration, sold, transferred, and delivered to Sol. Barth, who thereupon and then and for a valuable consideration sold, transferred, and delivered the same to Jacob Barth, who then became and ever since then and until the date of his death, hereinafter mentioned, was the holder and owner of said warrant.

161 That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs of this cause of action the plaintiff, in consideration of convenience and to save prolixity, hereby refers to the like numbered paragraphs of the first cause of action herein, reference being thereunto had and made at all times with the same force and effect as if the said numbered paragraphs of said first cause were written at length herein.

10.

That the plaintiff is the owner and holder of said warrant; that there is now due and unpaid thereon the sum of four hundred and fifty dollars ($450.00) and interest thereon, at the rate of ten per cent. per annum, from December 31st, 1884.

For a twenty-third cause of action plaintiff alleges:

1.

That at St. Johns, the county-seat of Apache county, in the Territory of Arizona, on or about August 11th, 1884, said county being then justly indebted to W. W. Berry in the sum of fifty-eight dollars ($58.00), which indebtedness was at that time due and unpaid, the board of supervisors, being then in regular session (supervisors of said county), did duly audit, find, allow, adjudge, and determine that there was due to said W. W. Berry in the premises from the said county the sum of fifty-eight dollars ($58.00) on the account of said indebtedness; and thereupon, to wit, on August 12, 1884, the said board did allow, draw, and issue to the said W. W. Berry a certain warrant of said county, numbered 166, signed by Luther Martin as and the then chairman of said board, and countersigned by Charles Kinnear as and the then clerk of said board, which said warrant commanded the treasurer of

162 said county to pay to the said W. W. Berry or order the sum of fifty-eight dollars ($58.00) out of the general fund of said treasury, a true copy of which said warrant, with all the endorsements thereon, is hereto attached, marked "Exhibit No. 23."

2.

That afterwards and on August 15, 1884, said warrant was by the then holder thereof duly presented to the treasurer of said county

and payment thereof demanded, which demand and payment was by the said treasurer refused; that the said treasurer then and there endorsed upon said warrant the following words, to wit: "Not paid for want of funds," and annexed thereto the date of said presentation and signed his name thereto, all of which will more fully appear by reference to said exhibit numbered 23.

3.

That in the year 1884, and after said warrant was presented to and endorsed, as aforesaid, by said treasurer, said warrant was by the said W. W. Berry, for a valuable consideration, sold, transferred, and delivered to Sol. Barth, who thereupon and then and for a valuable consideration sold, transferred, and delivered the same to Jacob Barth, who then became and ever since then and until the date of his death, hereinafter mentioned, was the holder and owner of said warrant.

That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs of this cause of action the plaintiff, in consideration of convenience and to save prolixity, hereby refers to the like numbered paragraphs of the first cause of action herein, reference being thereunto had and made at all times with the same force and effect as if the
163 said numbered paragraphs of said first cause were written at length herein.

10.

That the plaintiff is the owner and holder of said warrant; that there is now due and unpaid thereon the sum of fifty-eight dollars ($58.00) and interest thereon, at the rate of ten per cent. per annum, from August 15, 1884.

For a twenty-fourth cause of action plaintiff alleges:

1.

That at St. Johns, the county-seat of Apache county, in the Territory of Arizona, on or about December 30th, 1884, said county being then justly indebted to Sol. Barth in the sum of ninety-one dollars ($91.00) and fifty cents (50c.), which indebtedness was at that time due and unpaid, the board of supervisors, being then in regular session, did duly audit, find, allow, adjudge, and determine that there was due to the said Sol. Barth in the premises from said county the sum of $91.50, to be paid on account of said indebtedness; and thereupon, to wit, on December 31st, 1884, the said board did allow, draw, and issue to the said Sol. Barth a certain warrant of said county, numbered 311, signed by Luther Martin as and the then chairman of said board, and countersigned by Charles Kinnear as and the then clerk of said board, which warrant commanded the treasurer of said county to pay to the said Sol. Barth or order the sum of $91.50 out of the general fund of said treasury, a true copy of which said warrant, with all endorsements thereon, is hereto attached, marked "Exhibit No. 24," and made a part hereof.

2.

That afterwards and on December 31st, 1884, said warrant was by the then holder thereof duly presented to the treasurer
164 of said county and payment thereof demanded, which demand and payment was by the said treasurer refused; that the said treasurer then and there endorsed upon said warrant the following words, to wit: "Not paid for want of funds," and annexed thereunto the date of said presentation and signed his name thereto, all of which will more fully appear by reference to said exhibit numbered 24.

3.

That in the year 1884, and after said warrant was presented to and endorsed, as aforesaid, by said treasurer, said warrant was by the said Sol. Barth, for a valuable consideration, sold, transferred, and delivered to the said Jacob Barth, who then became and ever since then to and until the date of his death, hereinafter mentioned, was the owner and holder of said warrant.

That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs of this cause of action the plaintiff, in consideration of convenience and to save prolixity, hereby refers to the like numbered paragraphs of the first cause of action herein, and makes the same a part thereof, reference being thereunto at all times had and made with the same force and effect as if said numbered paragraphs were herein written at length.

10.

That the plaintiff is the owner and holder of said warrant; that there is now due and unpaid on said warrant the sum of ninety-one dollars and fifty cents ($91.50) and interest thereon, at the rate of ten per cent. per annum, from December 31st, 1884.

For a twenty-fifth cause of action plaintiff alleges:

1.

That at St. Johns, the county-seat of Apache county, in the
165 Territory of Arizona, on or about December 30th, 1884, said county being then justly indebted to Thomas Perez in the sum of eight hundred dollars ($800.00), which indebtedness was at that time due and unpaid, the board of supervisors of said county, being then in regular session, did duly audit, allow, find, adjudge, and determine that there was due to the said Thos. Perez in the premises from the said county the sum of $800.00, to be paid on account of the said indebtedness; and thereupon, to wit, on December 31st, 1884, the said board did allow, draw, and issue to the said Thos. Perez a certain warrant of said county, numbered 325, signed by Luther Martin as and the then chairman of said board, and countersigned by Charles Kinnear as and the then clerk of said board, which warrant commanded the treasurer of said county to pay to the said Thos. Perez or order the sum of $800.00 out of the general fund of

said treasury, a true copy of which said warrant, with all endorsements thereon, is hereto attached, marked " Exhibit No. 25."

2.

That afterwards and on December 31st, 1884, said warrant was by the then holder thereof duly presented to the treasurer of said county and payment thereof demanded, which demand and payment was by said treasurer refused; that said treasurer then and there endorsed upon said warrant the following words, to wit: " Not paid for want of funds," and annexed thereto the date of said presentation and signed his name thereto, all of which will more fully appear by reference to said exhibit numbered 25.

3.

That in the year 1884, and after said warrant was pre-
166 sented to and endorsed, as aforesaid, by said treasurer, said warrant was by the said Thomas Perez, for a valuable consideration, sold, transferred, and delivered to Sol. Barth, who thereupon and then and for a valuable consideration sold, transferred, and delivered the same to Jacob Barth, who then became and ever since then to and until the date of his death, hereinafter mentioned, was the holder and owner of said warrant.

That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs of this cause of action the plaintiff, in consideration of convenience and to save prolixity, hereby refers to the like numbered paragraphs of the first cause of action herein and makes the same a part hereof, reference being *had* thereunto at all times had and made with the same force and effect as if the said numbered paragraphs of said first cause were written at length herein.

10.

That the plaintiff is the owner and holder of said warrant; that there is now due and unpaid thereon the sum of $800.00 and interest thereon, at the rate of ten per cent. per annum, from December 31st, 1884.

For a twenty-sixth cause of action plaintiff alleges:

1.

That at St. Johns, the county-seat of Apache county, in the Territory of Arizona, on or about December 30th, 1884, said county being then justly indebted to N. Barth in the sum of twenty dollars ($20.00), which indebtedness was at that time due and unpaid, the board of supervisors of said county, being then in regular
167 session, did duly audit, find, allow, adjudge, and determine that there was due to the said N. Barth in the premises from said county the sum of twenty dollars ($20.00), to be paid on account of the said indebtedness; and thereupon, to wit, on December 31st, 1884, the said board did allow, draw, and issue to the said N. Barth a certain warrant of said county, numbered 324, signed by Luther

Martin as and the then chairman of said board, and countersigned by Charles Kinnear as and the then clerk of said board, which warrant commanded the treasurer of said county to pay to the said N. Barth or order the sum of $20.00 out of the general fund of said treasury, a true copy of which said warrant, with all the endorsements thereon, is hereto attached, marked "Exhibit No. 26."

2.

That afterwards and on December 31st, 1884, said warrant was by the then holder thereof duly presented to the treasurer of said county and payment thereof demanded, which demand and payment was by said treasurer refused; and that the said treasurer then and there endorsed upon said warrant the following words, to wit: "Not paid for want of funds," and annexed thereto the date of said presentation and signed his name thereto, all of which will more fully appear by reference to said exhibit numbered 26.

3.

That in the year 1884, and after said warrant was presented to and endorsed, as aforesaid, by said treasurer, said warrant was by the said Nathan Barth, for a valuable consideration, sold, transferred, and delivered to Sol. Barth, who thereupon and then, for a valuable consideration, sold, transferred, and delivered the same to said Jacob Barth, who then became and ever since then to and
168 until the date of his death, hereinafter mentioned, was the holder and owner of said warrant.

That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs of this cause of action the plaintiff, in consideration of convenience and to save prolixity, hereby refers to the like numbered paragraphs of the first cause of action herein and makes the same a part hereof, reference being *had* thereunto at all times had and made with the same force and effect as if the said numbered paragraphs of said first cause were written at length herein.

10.

That the plaintiff is the owner and holder of said warrant; that there is now due and unpaid thereon the sum of $20.00 and interest thereon, at the rate of ten per cent. per annum, from December 31st, 1884.

For a twenty-seventh cause of action plaintiff alleges:

1.

That at St. Johns, the county-seat of Apache county, in the Territory of Arizona, on or about December 30th, 1884, said county being then justly indebted to Sol. Barth in the sum of one hundred and thirty-five dollars ($135.00), which indebtedness was at that time due and unpaid, the board of supervisors, being then in regular session, did duly audit, find, allow, adjudge, and determine that there was due to the said Sol. Barth in the premises from said county the sum of $135.00, to be paid on account of said indebted-

ness; and thereupon, to wit, on December 31st, 1884, the said board did allow, draw, and issue to the said Sol. Barth a certain
169 warrant of said county, numbered 273, signed by Luther Martin as and the then chairman of said board, and countersigned by Charles Kinnear as and the then clerk of said board, which warrant commanded the treasurer of said county to pay to the said Sol. Barth or order the sum of one hundred and thirty-five dollars ($135.00) out of the general fund of said treasury, a true copy of which said warrant, with all endorsements thereon, is hereto attached, marked "Exhibit No. 27," and made a part hereof.

2.

That afterwards and on December 31st, 1884, said warrant was by the then holder thereof duly presented to the treasurer of said county and payment thereof demanded, which demand and payment was by the said treasurer refused; that said treasurer then and there endorsed upon said warrant the following words, to wit: "Not paid for want of funds," and annexed thereto the date of said presentation, and signed his name thereto, all of which will more fully appear by reference to said exhibit numbered 27.

3.

That in the year 1884, and after said warrant was presented to and endorsed, as aforesaid, by said treasurer, said warrant was by the said Sol. Barth, for a valuable consideration, sold, transferred, and delivered to the said Jacob Barth, who then became and ever since then to and until the date of his death, hereinafter mentioned, was the owner and holder of said warrant.

That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs of this cause of action the plaintiff, in consideration of conven-
170 ience and to save prolixity, hereby refers to the like numbered paragraphs of the first cause of action herein and makes the same a part hereof, reference being thereunto at all times had and made with the same force and effect as if said numbered paragraphs were herein written at length.

10.

That the plaintiff is the owner and holder of said warrant; that there is now due and unpaid on said warrant the sum of one hundred and thirty-five dollars ($135.00) and interest thereon, at the rate of ten per cent. per annum, from December 31, 1884.

For a twenty-eighth cause of action plaintiff alleges:

1.

That at St. Johns, the county-seat of Apache county, in the Territory of Arizona, on or about December 30th, 1884, said county being then justly indebted to Art. McDonald in the sum of one hundred and twenty-nine dollars and fifty cents ($129.50), which indebtedness was at that time due and unpaid, the board of supervisors of said county, being in regular session, did duly audit, find,

allow, adjudge, and determine that there was due to the said Art. McDonald in the premises from said county the sum of one hundred and twenty-nine dollars and fifty cents ($129.50), to be paid on account of said indebtedness; and thereupon, to wit, on December 31st, 1884, the said board did allow, draw, and issue to the said Art. McDonald a certain warrant of said county, numbered 280, signed by Luther Martin as and the then chairman of said board, and countersigned by Charles Kinnear as and the then clerk of said board, which warrant commanded the treasurer of said county to pay to the said Art. McDonald or order the sum of one hun-
171 dred and twenty-nine dollars and fifty cents ($129.50) out of the general fund of said treasury, a true copy of which said warrant, with all endorsements thereon, is hereto attached, marked "Exhibit No. 28," and made a part hereof.

2.

That afterwards and on December 31, 1884, said warrant was by the then holder thereof duly presented to the treasurer of said county and payment thereof demanded, which demand and payment was by the said treasurer refused; that said treasurer then and there endorsed upon said warrant the following words, to wit: "Not paid for want of funds," and annexed thereunto the date of said presentation and signed his name thereto, all of which will more fully appear by reference to said exhibit numbered 28.

3.

That in the year 1884, and after said warrant was presented to and endorsed, as aforesaid, by said treasurer, said warrant was by the said Art. McDonald, for a valuable consideration, sold, conveyed, and delivered to said Jacob Barth, who then became and ever since then to and until the time of his death, hereinafter mentioned, was the holder and owner of said warrant.

That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs of this cause of action the plaintiff, in consideration of convenience and to save prolixity, hereby refers to the like numbered paragraphs of the first cause of action herein and makes the same a part hereof, reference being at all times thereunto had and made with the same force and effect as if said numbered paragraphs of said first cause were written at length herein.

172 10.

That plaintiff is the owner and holder of said warrant; that there is now due and unpaid thereon the sum of $129.50 and interest thereon, at the rate of ten per cent. per annum, from December 31, 1884.

For a twenty-ninth cause of action plaintiff alleges:

1.

That at St. Johns, the county-seat of Apache county, in the Territory of Arizona, on or about December 30th, 1884, said county

being then justly indebted to Thos. Perez in the sum of five hundred dollars, and which indebtedness was at that time due and unpaid, the board of supervisors of said county, being then in regular session, did duly audit, find, allow, adjudge, and determine that there was due to the said Thomas Perez in the premises from said county the sum of five hundred dollars ($500.00), to be paid on account of said indebtedness; and thereupon, to wit, on December 31, 1884, the said board did allow, draw, and issue to the said Thos. Perez a certain warrant of said county, numbered 329, signed by Luther Martin as and the then chairman of said board, and countersigned by Charles Kinnear as and the then clerk of said board, which warrant commanded the treasurer of said county to pay to the said Thos. Perez or order the sum of $500.00 out of the general fund of said treasury, a true copy of which said warrant, with all endorsements thereon, is hereto attached, marked "Exhibit No. 29."

2.

That afterwards and on December 31, 1884, said warrant was by the then holder thereof duly presented to the treasurer of said
173 county and payment thereof demanded, which demand and payment was by the said treasurer refused; that said treasurer then and there endorsed upon said warrant the following words, to wit: "Not paid for want of funds," and annexed thereto the date of said presentation, and signed his name thereto, all of which will more fully appear by reference to said exhibit numbered 29.

3.

That in the year 1884, and after said warrant was presented to and endorsed, as aforesaid, by said treasurer, said warrant was by the said Thomas Perez, for a valuable consideration, sold, transferred, and delivered to Sol. Barth, who thereupon and then and for a valuable consideration sold, transferred, and delivered the same to said Jacob Barth, who then became and ever since then to and until the date of his death, hereinafter mentioned, was the holder and owner of said warrant.

That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs of this cause of action the plaintiff, in consideration of convenience and to save prolixity, hereby refers to the like numbered paragraphs of the first cause of action herein and makes the same a part hereof, reference being thereunto at all times had and made with the same force and effect as if the said numbered paragraphs of said first cause were written at length herein.

10.

That the plaintiff is the owner and holder of said warrant; that there is now due and unpaid thereon the sum of $500.00 and interest thereon, at the rate of ten per cent. per annum, from December 31, 1884.

174 For a thirtieth cause of action plaintiff alleges:

1.

That at St. Johns, the county-seat of Apache county, in the Territory of Arizona, on or about December 30th, 1884, said county being then justly indebted to E. C. Bunch in the sum of three hundred and twenty-five dollars ($325.00), which indebtedness was at that time due and unpaid, the board of supervisors of said county, being then in regular session, did duly audit, find, allow, adjudge, and determine that there was due to the said E. C. Bunch in the premises from said county the sum of $325.00, to be paid on account of the said indebtedness; and thereupon, to wit, on December 31, 1884, the said board did allow, draw, and issue to the said E. C. Bunch a certain warrant of said county, numbered 326, signed by Luther Martin as and the then chairman of said board, and countersigned by Charles Kinnear as and the then clerk of said board, which warrant commanded the treasurer of said county to pay to the said E. C. Bunch or order the sum of $325 out of the general fund of said treasury, a true copy of which said warrant, with all endorsements thereon, is hereto attached, marked "Exhibit No. 30."

2.

That afterwards and on December 31, 1884, said warrant was by the then holder thereof duly presented to the treasurer of said county and payment thereof demanded, which demand and payment was by the said treasurer refused; that said treasurer then and there endorsed upon said warrant the following words, to wit: "Not paid for want of funds," and annexed thereto the date of said presentation and signed his name thereto, all of which will more fully appear by reference to said exhibit numbered 30.

175 3.

That in the year 1884, and after said warrant was presented to and endorsed, as aforesaid, by said treasurer, said warrant was by the said E. C. Bunch, for a valuable consideration, sold, transferred, and delivered to Sol. Barth, who thereupon and then and for a valuable consideration sold, transferred, and delivered the same to said Jacob Barth, who then became and ever since then to and until the date of his death, hereinafter mentioned, was the holder and owner of said warrant.

That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs of this cause of action the plaintiff, in consideration of convenience and to save prolixity, hereby refers to the like numbered paragraphs of the first cause of action herein and makes the same a part hereof, reference being thereunto at all times had and made with the same force and effect as if the said numbered paragraphs of said first cause were written at length herein.

10.

That the plaintiff is the owner and holder of said warrant; that there is now due and unpaid thereon the sum of $325.00 and interest

thereon, at the rate of ten per cent. per annum, from December 31, 1884.

For a thirty-first cause of action plaintiff alleges:

1.

That at St. Johns, the county-seat of Apache county, in the Territory of Arizona, on or about December 30, 1884, said county being then justly indebted to Sol. Barth in the sum of one hundred and eighty dollars ($180.00), which indebtedness was at that time due and unpaid, the board of supervisors, being then in regular ses-
176 sion, did duly audit, find, allow, adjudge, and determine that there was due to the said Sol. Barth in the premises from said county the sum of one hundred and eighty dollars, to be paid on account of the said indebtedness; and thereupon, to wit, on December 31, 1884, the said board did allow, draw, and issue to the said Sol. Barth a certain warrant, numbered 272, of said county, signed by Luther Martin as and the then chairman of said board, and countersigned by Charles Kinnear as and the then clerk of said board, which warrant commanded the treasurer of said county to pay to the said Sol. Barth or order the sum of $180.00 out of the general fund of said treasury, a true copy of which said warrant, with all endorsements thereon, is hereto attached and made a part hereof and marked "Exhibit No. 31."

2.

That afterwards and on December 31, 1884, said warrant was by the then holder thereof duly presented to the treasurer of said county and payment thereof demanded, which demand and payment was by the said treasurer refused; that the said treasurer then and there endorsed upon said warrant the following words, to wit: "Not paid for want of funds," and annexed thereto the date of said presentation and signed his name thereto, all of which will more fully appear by reference to said exhibit numbered thirty-one (31).

3.

That in the year 1884, and after said warrant was presented to and endorsed, as aforesaid, by said treasurer, said warrant was by the said Sol. Barth, for a valuable consideration, sold, transferred,
177 and delivered to said Jacob Barth, who then and thereby became and ever since then to and until the date of his death, hereinafter mentioned, was the owner and holder of said warrant.

That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs of this cause of action the plaintiff, in consideration of convenience and to save prolixity, hereby refers to the like numbered paragraphs of the first cause of action herein and makes the same a part thereof, reference being thereunto at all times had and made with the same force and effect as if the said numbered paragraphs of said first cause were herein written at length.

10.

That the plaintiff is the owner and holder of said warrant; that there is now due and unpaid thereon the sum of $180.00 and interest thereon, at the rate of ten per cent. per annum, from December 31, 1884.

For a thirty-second cause of action plaintiff alleges:

1.

That at St. Johns, the county-seat of Apache county, in the Territory of Arizona, on or about December 30, 1884, said county being then justly indebted to A. Abeita in the sum of forty-five dollars, which indebtedness was at that time due and unpaid, the board of supervisors, being then in regular session, did duly audit, find, allow, adjudge, and determine that there was due to the said A. Abeita in the premises from said county the sum of $45.00, to be paid on account of said indebtedness; and thereupon, to wit, on December 31, 1884,
178 the said board did allow, draw, and issue to the said A. Abeita a certain warrant, numbered 300, of said county, signed by Luther Martin as and the then chairman of said board, and countersigned by Charles Kinnear as and the then clerk of said board, which warrant commanded the treasurer of said county to pay to the said A. Abeita or order the sum of forty-five dollars ($45.00) out of the general fund of said treasury, a true copy of which said warrant, with all endorsements thereon, is hereto attached and made a part hereof and marked "Exhibit No. 32."

2.

That afterwards and on December 31, 1884, said warrant was by the then holder thereof duly presented to the treasurer of said county and payment thereof demanded, which demand and payment was by the said treasurer refused; that said treasurer then and there endorsed upon said warrant the following words, to wit: "Not paid for want of funds," and annexed thereto the date of said presentation and signed his name thereto, all of which will more fully appear by reference to said exhibit numbered 32.

3.

That in the year 1884, and after said warrant was presented to and endorsed, as aforesaid, by said treasurer, said warrant was by the said A. Abeita, for a valuable consideration, sold, transferred, and delivered to said Jacob Barth, who then and thereby became and ever since then to and until the date of his death, hereinafter mentioned, was the owner of said warrant.

That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs
179 of this cause of action the plaintiff, in consideration of convenience and to save prolixity, hereby refers to the like numbered paragraphs of the first cause of action herein and makes the same a part thereof, reference being thereunto at all times had and made with the same force and effect as if the said numbered paragraphs of said first cause were herein written at length.

10.

That the plaintiff is the owner and holder of said warrant; that there is now due and unpaid thereon the sum of $45.00 and interest thereon, at the rate of ten per cent. per annum, from December 31, 1884.

For a thirty-third cause of action plaintiff alleges:

1.

That at St. Johns, the county-seat of Apache county, in the Territory of Arizona, on or about December 30, 1884, said county being then justly indebted to A. D. McIntosh in the sum of one hundred and twenty-one dollars ($121.00), which indebtedness was at that time due and unpaid, the board of supervisors, being then in regular session, did duly audit, find, allow, adjudge, and determine that there was due to the said A. D. McIntosh in the premises from said county the sum of $121.00, to be paid on account of said indebtedness; and thereupon, to wit, on December 31, 1884, said board did allow, draw, and issue to the said A. D. McIntosh a certain warrant, numbered 32, of said county, signed by Luther Martin as and the then chairman of said board, and countersigned by Charles Kinnear as and the then clerk of said board, which warrant commanded the treasurer of said county to pay to the said A. D. McIntosh or order the sum of $121.00 out of the road fund of said treasury, a true copy
180 of which said warrant, with all endorsements thereon, is hereto attached, and made a part hereof, and marked "Exhibit No. 33."

2.

That afterwards and on December 31, 1884, said warrant was by the then holder thereof duly presented to the treasurer of said county and payment thereof demanded, which demand and payment was by the said treasurer refused; that the said treasurer then and there endorsed upon said warrant the following words, to wit: "Not paid for want of funds," and annexed thereto the date of said presentation and signed his name thereto, all of which will more fully appear by reference to said exhibit numbered 33.

3.

That in the year 1884, and after said warrant was presented to and endorsed, as aforesaid, by said treasurer, said warrant was by the said A. D. McIntosh, for a valuable consideration, sold, transferred, and delivered to said Jacob Barth, who then and thereby became and ever since then to and until the date of his death, hereinafter mentioned, was the owner of said warrant.

That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs of this cause of action the plaintiff, in consideration of convenience and to save prolixity, hereby refers to the like numbered paragraphs of the first cause of action herein, and makes the same a part hereof, reference being thereunto at all times had and made with the same

force and effect as if the said numbered paragraphs of said first cause were herein written at length.

10.

That the plaintiff is the owner and holder of said warrant;
181 that there is now due and unpaid thereon the sum of $121.00 and interest thereon, at the rate of ten per cent. per annum, from December 31, 1884.

For a thirty-fourth cause of action plaintiff alleges:

1.

That at St. Johns, the county-seat of Apache county, in the Territory of Arizona, on or about December 30, 1884, said county being then justly indebted to B. Lopez in the sum of one hundred and ninety-eight dollars ($198.00), which indebtedness was at that time due and unpaid, the board of supervisors, being then in regular session, did duly audit, find, allow, adjudge, and determine that there was due to the said B. Lopez in the premises from said county the sum of $198.00, to be paid on account of said indebtedness; and thereupon, to wit, on December 31, 1884, the said board did allow, draw, and issue to the said B. Lopez a certain warrant, numbered 321, of said county, signed by Luther Martin as and the then chairman of said board, and countersigned by Charles Kinnear as and the then clerk of said board, which warrant commanded the treasurer of said county to pay to the said B. Lopez or order the sum of $198.00 out of the general fund of said treasury, a true copy of which said warrant, with all endorsements thereon, is hereto attached and made a part hereof and marked "Exhibit No. 34."

2.

That afterwards and on December 31, 1884, said warrant was by the then holder thereof duly presented to the treasurer of said county and payment thereof demanded, which demand and payment was by the said treasurer refused; that said treasurer then and
there endorsed upon said warrant the following words, to
182 wit: "Not paid for want of funds," and annexed thereto the date of said presentation and signed his name thereto, all of which will more fully appear by reference to said exhibit numbered 34.

3.

That in the year 1884, and after said warrant was presented to and endorsed, as aforesaid, by said treasurer, said warrant was by the said Benigno Lopez, for a valuable consideration, sold, transferred, and delivered to said Jacob Barth, who then and thereby became and ever since then to and until the date of his death, hereinafter mentioned, was the owner of said warrant.

That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs of this cause of action the plaintiff, in consideration of convenience and to save prolixity, hereby refers to the like numbered paragraphs of the

first cause of action herein and makes the same a part hereof, reference being thereunto at all times had and made with the same force and effect as if the said numbered paragraphs of said first cause were herein written at length.

10.

That the plaintiff is the owner and holder of said warrant; that there is now due and unpaid thereon the sum of $198.00 and interest thereon, at the rate of ten per cent. per annum, from December 31, 1884.

For a thirty-fifth cause of action plaintiff alleges:

1.

That at St. Johns, the county-seat of Apache county, in the Territory of Arizona, on or about December 30, 1884, said county
183 being then justly indebted to Roman Lopez in the sum of one hundred and forty dollars ($140.00), which indebtedness was at that time due and unpaid, the board of supervisors, being then in regular session, did duly audit, find, allow, adjudge, and determine that there was due to the said Roman Lopez in the premises from said county the sum of $140.00, to be paid on account of the said indebtedness; and thereupon, to wit, on December 31, 1884, the said board did allow, draw, and issue to the said Roman Lopez a certain warrant, numbered 266, of said county, signed by Luther Martin as and the then chairman of said board, and countersigned by Charles Kinnear as and the then clerk of said board, which warrant commanded the treasurer of said county to pay to the said Roman Lopez or order the sum of $140.00 out of the general fund of said treasury, a true copy of which said warrant, with all endorsements thereon, is hereto attached, marked "Exhibit No. 35," and made a part hereof.

2.

That afterwards and on December 31, 1884, said warrant was by the then holder thereof duly presented to the treasurer of said county and payment thereof demanded, which demand and payment was by the said treasurer refused; that said treasurer then and there endorsed upon said warrant the following words, to wit: "Not paid for want of funds," and annexed thereto the date of said presentation and signed his name thereto, all of which will more fully appear by reference to said exhibit numbered 35.

3.

That in the year 1884, and after said warrant was presented
184 to and endorsed, as aforesaid, by said treasurer, said warrant was by the said Roman Lopez, for a valuable consideration, sold, transferred, and delivered to the said Jacob Barth, who then became and ever since then to and until the date of his death, hereinafter mentioned, was the owner and holder of said warrant.

That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs of this cause of action the plaintiff, in consideration of convenience

and to save prolixity, hereby refers to the like numbered paragraphs of the first cause of action herein and makes the same a part hereof, reference being thereunto at all times had and made with the same force and effect as if the said numbered paragraphs were herein written at length.

10.

That the plaintiff is the owner and holder of said warrant; that there is now due and unpaid on said warrant the sum of $140.00 and interest thereon, at the rate of ten per cent. per annum, from December 31, 1884.

For a thirty-sixth cause of action plaintiff alleges:

1.

That at St. Johns, the county-seat of Apache county, in the Territory of Arizona, on or about December 30, 1884, said county being then justly indebted to Albert Miller in the sum of sixty-five dollars ($65.00), which indebtedness was at that time due and unpaid, the board of supervisors of said county, being then in regular session, did duly audit, find, allow, adjudge, and determine that there was due to the said Albert Miller in the premises from said county the sum of $65.00, to be paid on account of said indebtedness;
185 and thereupon, to wit, on December 31, 1884, the said board did allow, draw, and issue to the said Albert Miller a certain warrant of said county, numbered 302, signed by Luther Martin as and the then chairman of said board, and countersigned by Charles Kinnear as and the then clerk of said board, which warrant commanded the treasurer of said county to pay to the said Albert Miller or order the sum of $65.00 out of the general fund of said treasury, a true copy of which said warrant, with all endorsements thereon, is hereto attached, marked "Exhibit No. 36," and made a part hereof.

2.

That afterwards and on December 31, 1884, said warrant was by the then holder thereof duly presented to the treasurer of said county and payment thereof demanded, which demand and payment was by the said treasurer refused; that said treasurer then and there endorsed upon said warrant the following words, to wit: "Not paid for want of funds," and annexed thereunto the date of said presentation, and signed his name thereto, all of which will more fully appear by reference to said exhibit numbered 36.

3.

That in the year 1884, and after said warrant was presented to and endorsed, as aforesaid, by said treasurer, said warrant was by the said Albert Miller, for a valuable consideration, sold, conveyed, and delivered to said Jacob Barth, who then became and ever since then to and until the time of his death, hereinafter mentioned, was the holder and owner of said warrant.

That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs of

this cause of action the plaintiff, in consideration of convenience and to save prolixity, hereby refers to the like numbered paragraphs of the first cause of action herein and makes the same a part hereof, reference being at all times thereunto had and made with the same force and effect as if said numbered paragraphs of said first cause were written at length herein.

186

10.

That plaintiff is the owner and holder of said warrant; that there is now due and unpaid thereon the sum of $65.00 and interest thereon, at the rate of ten per cent. per annum, from December 31, 1884.

For a thirty-seventh cause of action plaintiff alleges:

1.

That at St. Johns, the county-seat of Apache county, in the Territory of Arizona, on or about December 30, 1884, said county being then justly indebted to W. W. Wall in the sum of one hundred and seventy-five dollars ($175.00), which indebtedness was at that time due and unpaid, the board of supervisors of said county, being then in regular session, did duly audit, find, allow, adjudge, and determine that there was due to the said W. W. Wall in the premises from said county the sum of one hundred and seventy-five dollars ($175.00), to be paid on account of said indebtedness; and thereupon, to wit, on December 31, 1884, the said board did allow, draw, and issue to the said W. W. Wall a certain warrant of said county, numbered 276, signed by Luther Martin as and the then chairman of said board, and countersigned by Charles Kinnear as and the then clerk of said board, which warrant commanded the treasurer of said county to pay to the said W. W. Wall or order the sum of $175.00 out of the general fund of said treasury, a true copy of which said warrant, with all endorsements thereon, is hereto attached, marked "Exhibit No. 37," and made a part hereof.

187

2.

That afterwards and on December 31, 1884, said warrant was by the then holder thereof duly presented to the treasurer of said county and payment thereof demanded, which demand and payment was by the said treasurer refused; that said treasurer then and there endorsed upon said warrant the following words, to wit: "Not paid for want of funds," and annexed thereto the date of said presentation and signed his name thereto, all of which will more fully appear by reference to said exhibit numbered 37.

3.

That in the year 1884, and after said warrant was presented to and endorsed, as aforesaid, by said treasurer, said warrant was by the said W. W. Wall, for a valuable consideration, sold, transferred, and delivered to said Jacob Barth, who then became and ever since

then to and until the date of his death, hereinafter mentioned, was the owner and holder of said warrant.

That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs of this cause of action the plaintiff, in consideration of convenience and to save prolixity, hereby refers to the like numbered paragraphs of the first cause of action herein and makes the same a part hereof, reference being thereunto at all times had and made with the same force and effect as if said numbered paragraphs of said first cause were written at length herein.

188 10.

That the plaintiff is the owner and holder of said warrant; that there is now due and unpaid thereon the sum of $175.00 and interest thereon, at the rate of ten per cent. per annum, from December 31, 1884.

For a thirty-eighth cause of action plaintiff alleges:

1.

That at St. Johns, the county-seat of Apache county, in the Territory of Arizona, on or about December 30, 1884, said county being then justly indebted to B. Lopez in the sum of twenty-seven dollars and fifty cents ($27.50), which indebtedness was at that time due and unpaid, the board of supervisors of said county, being then in regular session, did duly audit, find, allow, adjudge, and determine that there was due to the said B. Lopez in the premises from said county the sum of $27.50, to be paid on account of said indebtedness; and thereupon, to wit, on December 31, 1884, the said board did allow, draw, and issue to the said B. Lopez a certain warrant of said county, numbered 319, signed by Luther Martin as and the then chairman of said board, and countersigned by Charles Kinnear as and the then clerk of said board, which warrant commanded the treasurer of said county to pay to the said B. Lopez or order the sum of twenty-seven dollars and fifty cents ($27.50) out of the general fund of said treasury, a true copy of which said warrant, with all endorsements thereon, is hereto attached, marked "Exhibit No. 38."

2.

That afterwards and on December 31, 1884, said warrant was by the then holder thereof duly presented to the treasurer of said
189 county and payment thereof demanded, which demand and payment was by said treasurer refused; that said treasurer then and there endorsed upon said warrant the following words, to wit: "Not paid for want of funds," and annexed thereto the date of said presentation, and signed his name thereto, all of which will more fully appear by reference to said exhibit numbered 38.

3.

That in the year 1884, and after said warrant was presented to and endorsed, as aforesaid, by said treasurer, said warrant was by the

said Benigno Lopez, for a valuable consideration, sold, transferred, and delivered to Sol. Barth, who thereupon and then and for a valuable consideration sold, transferred, and delivered the same to said Jacob Barth, who then became and ever since then to and until the date of his death, hereinafter mentioned, was the holder and owner of said warrant.

That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs of this cause of action the plaintiff, in consideration of convenience and to save prolixity, hereby refers to the like numbered paragraphs of the first cause of action herein and makes the same a part hereof, reference being thereunto at all times had and made with the same force and effect as if the said numbered paragraphs of said first cause were written at length herein.

10.

That the plaintiff is the owner and holder of said warrant; that there is now due and unpaid thereon the sum of $27.50 and interest thereon, at the rate of ten per cent. per annum, from December 31, 1884.

190 For a thirty-ninth cause of action plaintiff alleges:

1.

That at St. Johns, the county-seat of Apache county, in the Territory of Arizona, on or about December 30th, 1884, said county being then justly indebted to L. Chaves in the sum of twenty-seven dollars and fifty cents ($27.50), which indebtedness was at that time due and unpaid, the board of supervisors of said county, being then in regular session, did duly audit, find, allow, adjudge, and determine that there was due to the said L. Chaves in the premises from said county the sum of $27.50, to be paid on account of said indebtedness; and thereupon, to wit, on December 31, 1884, the said board did allow, draw, and issue to the said L. Chaves a certain warrant of said county, numbered 320, signed by Luther Martin as and the then chairman of said board, and countersigned by Charles Kinnear as and the then clerk of said board, which warrant commanded the treasurer of said county to pay to the said L. Chaves or order the sum of $27.50 out of the general fund of said treasury, a true copy of which said warrant, with all endorsements thereon, is hereto attached, marked "Exhibit No. 39," and made a part hereof.

2.

That afterwards and on December 31, 1884, said warrant was by the then holder thereof duly presented to the treasurer of said county and payment thereof demanded, which demand and payment was by said treasurer refused; that said treasurer then and there endorsed upon said warrant the following words, to wit: "Not paid for want of funds," and annexed thereto the date of said
191 presentation and signed his name thereto, all of which will more fully appear by reference to said Exhibit No. 39.

3.

That in the year 1884, and after said warrant was presented to and endorsed, as aforesaid, by said treasurer, said warrant was by the said Luiz Chaves, for a valuable consideration, sold, transferred, and delivered to Sol. Barth, who thereupon and then, for a valuable consideration, sold, transferred, and delivered the same to said Jacob Barth, who then became and ever since then to and until the date of his death, hereinafter mentioned, was the owner and holder of said warrant.

That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs of this cause of action the plaintiff, in consideration of convenience and to save prolixity, hereby refers to the like numbered paragraphs of the first cause of action herein and makes the same a part hereof, reference being thereunto at all times had and made with the same force and effect as if said numbered paragraphs of said first cause were written at length herein.

10.

That the plaintiff is the owner and holder of said warrant; that there is now due and unpaid thereon the sum of $27.50 and interest thereon, at the rate of ten per cent. per annum, from December 31, 1884.

For a fortieth cause of action plaintiff alleges:

1.

That at St. Johns, the county-seat of Apache county, in the Territory of Arizona, on or about December 30th, 1884, said county being then justly indebted to M. Barth in the sum of twenty dol-
192 lars ($20.00), which indebtedness was at that time due and unpaid, the board of supervisors of said county, being then in regular session, did duly audit, find, allow, adjudge, and determine that there was due to the said M. Barth in the premises from said county the sum of twenty dollars ($20.00), to be paid on account of said indebtedness; and thereupon, to wit, on December 31, 1884, the said board did allow, draw, and issue to the said M. Barth a certain warrant of said county, numbered 323, signed by Luther Martin as and the then chairman of said board, and countersigned by Charles Kinnear as and the then clerk of said board, which warrant commanded the treasurer of said county to pay to the said M. Barth or order the sum of twenty dollars ($20.00) out of the general fund of said treasury, a true copy of which said warrant, with all endorsements thereon, is hereto attached, marked "Exhibit No. 40," and made a part hereof.

2.

That afterwards and on December 31, 1884, said warrant was by the then holder thereof duly presented to the treasurer of said county and payment thereof demanded, which demand and payment was

by said treasurer refused; that said treasurer then and there endorsed upon said warrant the following words, to wit: "Not paid for want of funds," and annexed thereto the date of said presentation and signed his name thereto, all of which will more fully appear by reference to said Exhibit No. 40.

3.

That in the year 1884, and after said warrant was presented to and endorsed, as aforesaid, by said treasurer, said warrant was by
193 the said M. Barth, for a valuable consideration, sold, transferred, and delivered to N. Barth (administrator), who thereupon and then, for a valuable consideration, sold, transferred, and delivered the same to said Jacob Barth, who then became and ever since then to and until the date of his death, hereinafter mentioned, was the owner and holder of said warrant.

That as and for the 4th, 5th, 6th, 7th, 8th, and 9th paragraphs of this cause of action the plaintiff, in consideration of convenience and to save prolixity, hereby refers to the like numbered paragraphs of the first cause of action herein and makes the same a part hereof, reference being thereunto at all times had and made with the same force and effect as if said numbered paragraphs of said first cause were written at length herein.

10.

That the plaintiff is the owner and holder of said warrant; that there is now due and unpaid thereon the sum of $20.00 and interest thereon, at the rate of ten per cent. per annum, from December 31, 1884.

Wherefore plaintiff prays judgment against the defendant for the sum of seven thousand seven hundred and eighty dollars and seventy-five cents and interest on the following portions thereof, at the rate of ten per cent. per annum, from the dates set opposite said respective portions, to wit:

$69.50, July 12th, 1884; $77.50, August 6th, 1884; $130.00, August 6th, 1884; $137.00, August 6th, 1884; $175.00, August 6th, 1884; $121.00, August 6th, 1884; $284.00, August 7th, 1884; $58.00, August 15th, 1884; $96.00, October 9th, 1884; $900.00, November 7, 1884; $66.00, October 8th, 1884; $392.00, Novem-
194 ber 6th, 1884; $330.00, November 7th, 1884; $13.25, October 8th, 1884; $187.00, October 8th, 1884; $98.00, October 9th, 1884; $30.00, October 8th, 1884; $400.00, October 8th, 1884; $174.00, October 9th, 1884; $25.00, October 9th, 1884; $500.00, December 31st, 1884; $450, December 31, 1884; $58.00, August 15, 1884; $91.50, December 31, 1884; $800.00, December 31st, 1884; $20, December 31st, 1884; $135.00, December 31st, 1884; $129.50, December 31st, 1884; $500.00, December 31st, 1884; $325.00, December 31st, 1884; $180.00, December 31st, 1884; $45.00, December 31st, 1884; $121.00, December 31st, 1884; $198.00, December 31st, 1884; $140.00, December 31st, 1884; $65.00, December 31st, 1884; $175.00, December

31st, 1884; $27.50, December 31st, 1884; $27.50, December 31st, 1884; $20.00, December 31st, 1884, and for costs of suit.

T. W. JOHNSTONE &
E. M. SANFORD,
Attorneys for Plaintiff.

EXHIBIT No. 1.

"No. 17. *Apache County Warrant.* $69.50.

Road fund.

ST. JOHNS, A. T., *July 13th*, 1884.

The treasurer of Apache county will pay to Julius Becker or order the sum of sixty-nine and 50/100 for road-work.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors."

195 Endorsements: "Not paid for want of funds. Presented this 12th day of July, 1884. Julius Becker, Sol. Barth. D. Baca, Co. treasurer; A. Ruiz, deputy."

"EXHIBIT No. 2."

"No. 159. *Apache County Warrant.* $77.50.

General fund.

ST. JOHNS, A. T., *Aug't 6th*, 1884.

The treasurer of Apache county will pay to A. M. Boyer or order the sum of seventy-seven 50/100 dollars for board of prisoners.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors."

Endorsements: "Not paid for want of funds. Presented Aug't 6th, 1884. D. Baca, treasurer; A. Ruiz, dept. treasurer. A. M. Boyer, M. Barth."

"EXHIBIT No. 3."

"No. 160. *Apache County Warrant.* $130.00.

General fund.

ST. JOHNS, A. T., *Aug't 6th*, 1884.

The treasurer of Apache county will pay to M. Barth or order the sum of one hundred and thirty & 00/100 dollars for services as constable.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors."

196 Endorsements: "Not paid for want of funds. Presented Aug. 6th, 1884. D. Baca, treasurer; A. Ruiz, dept. treasurer. M. Barth."

EXHIBIT No. 4.

"No. 156. *Apache County Warrant.* $137.00.

General fund.

ST. JOHNS, A. T., *Aug't 6th*, 1884.

The treasurer of Apache county will pay to J. H. Wilson or order the sum of one hundred and thirty-seven 00/100 dollars for services as constable.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors."

Endorsements: "Not paid for want of funds. Presented Aug't 6th, 1884. D. Baca, treasurer; A. Ruiz, dept. treasurer. J. H. Wilson, Morris Barth."

EXHIBIT No. 5.

"No. 137. *Apache County Warrant.* $175.00.

General fund.

ST. JOHNS, A. T., *Aug't 6th*, 1884.

The treasurer of Apache county will pay to T. J. Shuflin or order the sum of one hundred and seventy-five 00/100 dollars for services as dept. sheriff.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors."

197 Endorsements: "Not paid for want of funds. Presented Aug't 6th, 1884. D. Baca, treasurer; A. Ruiz, dept. treasurer. T. J. Shuflin, M. Barth."

"EXHIBIT No. 6."

"No. 158. *Apache County Warrant.* $121.00.

General fund.

ST. JOHNS, A. T., *Aug't 6th*, 1884.

The treasurer of Apache county will pay to Houck & McDonald or order the sum of one hundred and twenty-one 00/100 dollars for sheriff's expenses.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors."

Endorsements: "Not paid for want of funds. Presented Aug't 6th, 1884. D. Baca, treasurer; A. Ruiz, dept. treasurer. Houck & McDonald, M. Barth."

"EXHIBIT No. 7."

"No. 19. *Apache County Warrant.* $284.00.

Road fund.

ST. JOHNS, A. T., *Aug't 6th*, 1884.

The treasurer of Apache county will pay to A. B. Lambson or order the sum of two hundred and eighty-four 00/100 dollars for road work.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors."

198 Endorsements: Not paid for want of funds. Presented this 7th day of August, 1884. D. Baca, treasurer; A. Ruiz, deputy. M. Barth, A. B. Lambson.

EXHIBIT No. 8.

"No. 214. *Apache County Warrant.* $58.00.

General fund.

ST. JOHNS, A. T., *Aug't 14th*, 1884.

The treasurer of Apache county will pay to John Nicholson or order the sum of fifty-eight 00/100 dollars for grand jury fees.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors."

Endorsements: "Not paid for want of funds. Presented Aug. 15th, 1884. D. Baca, treasurer; A. Ruiz, deputy. John Nicholson, Sol. Barth."

EXHIBIT No. 9.

"No. 233. *Apache County Warrant.* $96.00.

General fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to E. D. Johnson or order the sum of ninety-six 00/100 dollars for carpenter-work, etc., etc.

LUTHER MARTIN,
Chairman Board of Supervisors.

199 CHAS. KINNEAR,
Clerk Board of Supervisors."

Endorsements: "Not paid for want of funds. Presented Oct. 9th, '84. D. Baca, treasurer; A. Ruiz, dept. treasurer. E. D. Johnson, Sol. Barth."

EXHIBIT No. 10.

"No. 254. *Apache County Warrant.* $900.00.

General fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to Thos. Perez or order the sum of nine hundred 00/100 dollars for sheriff.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors."

Endorsements: "Not paid for want of funds. Presented Nov. 7th, 1884. D. Baca, treasurer; A. Ruiz, deputy. Thos. Perez, Sol. Barth."

EXHIBIT No. 11.

"No. 239. *Apache County Warrant.* $66.00.

General fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to M. P. Romney or order the sum of sixty-six 00/100 dollars for printing.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors."

200 Endorsements: "No sepaga pr falto de fundez. Otubre 8 de 1884. Deonicio Baca, teserera, per Rosalie Colomo. M. P. Romney, Sol. Barth."

EXHIBIT No. 12.

"No. 222. *Apache County Warrant.* $392.00.

General fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to Sol. Barth or order the sum of three hundred and ninety-two 00/100 dollars for mdse. for poor, &c.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors."

Endorsements: "Not paid for want of funds. Presented November 6th, 1884. D. Baca, treasurer; A. Ruiz, deputy. Sol. Barth."

EXHIBIT No. 13.

" No. 232. *Apache County Warrant.* $330.00.

General fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to Sol. Barth or order the sum of three hundred and thirty 00/100 dollars for mdse. for county, &c.

LUTHER MARTIN,
Chairman Board of Supervisors.

201 CHAS. KINNEAR,
Clerk Board of Supervisors."

Endorsements: " Not paid for want of funds. Presented November 7th, 1884. D. Baca, treasurer; A. Ruiz, deputy. Sol. Barth."

EXHIBIT No. 14.

" No. 236. *Apache County Warrant.* $13.25.

General fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to John T. Hogue or order the sum of thirteen 25/100 dollars for R. officers.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors."

Endorsements: " Not paid for want of funds. Presented Oct. 8th, 1884. D. Baca, treasurer; A. Ruiz, deputy. John T. Hogue, Sol. Barth."

EXHIBIT No. 15.

" No. 245. *Apache County Warrant.* $187.00.

General fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to Chas. Kinnear or order the sum of one hundred and eighty-seven 00/100 dollars for books, etc.

LUTHER MARTIN,
Chairman Board of Supervisors.

202 CHAS. KINNEAR,
Clerk Board of Supervisors."

Endorsements: " Not paid for want of funds. Presented Oct. 8th, 1884. D. Baca, treasurer; Alfred Ruiz, dept. Chas. Kinnear, Sol. Barth."

EXHIBIT No. 16.

"No. 238. *Apache County Warrant.* $98.00.

General fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to A. Gonzales or order the sum of ninety-eight 00/100 dollars for lumber.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors."

Endorsements: "Not paid for want of funds. Presented Oct. 9th. 1884. D. Baca, treasurer; A. Ruiz, deputy. Antonio Gonzales, M. Barth."

EXHIBIT No. 17.

"No. 29. *Apache County Warrant.* $30.00.

Road fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to A. D. McIntosh or order the sum of thirty dollars 00/100 for road-work.

LUTHER MARTIN,
Chairman Board of Supervisors.

203 CHAS. KINNEAR,
Clerk Board of Supervisors."

Endorsements: "Not paid for want of funds. Oct. 8th, 1884. D. Baca, treasurer; Alfred Ruiz, dept. A. D. McIntosh, M. Barth."

EXHIBIT No. 18.

"No. 31. *Apache County Warrant.* $400.00.

Road fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to William Lewis or order the sum of four hundred 00/100 dollars for road-work.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors."

Endorsements: "Not paid for want of funds. Oct. 8th, '84. D. Baca, treasurer; Alfred Ruiz, deputy. William Lewis, M. Barth."

EXHIBIT No. 19.

" No. 258. *Apache County Warrant.* $174.00.

General fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to Wm. M. Rudd or order the sum of one hundred and seventy-four 00/100 dollars for dist. att'y.

LUTHER MARTIN,
Chairman Board of Supervisors.

204 CHAS. KINNEAR,
Clerk Board of Supervisors."

Endorsements: "Not paid for want of funds. Presented Oct. 9th, 1884 D. Baca, treasurer; Alfred Ruiz, dept. Wm. M. Rudd, M. Barth."

EXHIBIT No. 20.

" No. 261. *Apache County Warrant.* $25.00.

General fund.

ST. JOHNS, A. T., *Oct. 9th*, 1884.

The treasurer of Apache county will pay to J. T. Hogue or order the sum of twenty-five 00/100 dollars for registering.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors."

Endorsements: "No sepaga pr falto de fundez, Otubre 9, 1884. Deonicio Baca, teserera; pr Rosalie Coloma, D. P. J. T. Hogue, M. Barth."

EXHIBIT No. 21.

" No. 263. *Apache County Warrant.* $500.00.

General fund.

ST. JOHNS, A. T., *Oct. 9th*, 1884.

The treasurer of Apache county will pay to Thos. Perez or order the sum of five hundred 00/100 dollars for services as sheriff.

LUTHER MARTIN,
Chairman Board of Supervisors.

205 CHAS. KINNEAR,
Clerk Board of Supervisors."

Endorsements: "Not paid for want of funds. Dec. 31, '84. D. Baca, treasurer; Alfred Ruiz, dept. treasurer. Thomas Perez."

EXHIBIT No. 22.

"No. 264. *Apache County Warrant.* $450.00.

General fund.

ST. JOHNS, A. T., *Oct. 9th*, 1884.

The treasurer of Apache county will pay to W. M. Rudd or order the sum of four hundred & fifty 00/100 dollars for dist. att'y.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors."

Endorsements: "Not paid for want of funds. Dec. 31, '84. D. Baca, treasurer; Alfred Ruiz, dept. treasurer. Wm. M. Rudd, Sol. Barth."

EXHIBIT No. 23.

"No. 166. *Apache County Warrant.* $58.00.

General fund.

ST. JOHNS, A. T., *Aug. 12th*, 1884.

The treasurer of Apache county will pay to W. W. Berry or order the sum of fifty-eight 00/100 dollars for grand-jury fees.

LUTHER MARTIN,
Chairman Board of Supervisors.

206 CHAS. KINNEAR,
Clerk Board of Supervisors."

Endorsements: "Not paid for want of funds. Presented Aug. 15th, 1884. D. Baca, treasurer; A. Ruiz, deputy. W. W. Berry, Sol. Barth."

EXHIBIT No. 24.

"No. 311. *Apache County Warrant.* $91.50.

General fund.

ST. JOHNS, A. T., *Dec. 31st*, 1884.

The treasurer of Apache county will pay to Sol. Barth or order the sum of ninety-one 50/100 dollars for mdse.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors."

Endorsements: "Not paid for want of funds. Presented Dec. 31st, 1884. D. Baca, treasurer; A. Ruiz, deputy. Sol. Barth."

EXHIBIT No. 25.

" No. 325. *Apache County Warrant.* $800.00.

General fund.

ST. JOHNS, A. T., *Dec.* 31*st*, 1884.

The treasurer of Apache county will pay to Thos. Perez or order the sum of eight hundred 00/100 dollars for services as sheriff.

LUTHER MARTIN,
Chairman Board of Supervisors.

207 CHAS. KINNEAR,
Clerk Board of Supervisors."

Endorsements: " Not paid for want of funds. Dec. 31, '84. D. Baca, treasurer; Alfred Ruiz, dept. treasurer. Thomas Perez, Sol. Barth."

EXHIBIT No. 26.

" No. 324. *Apache County Warrant.* $20.00.

General-fund warrant.

ST. JOHNS, A. T., *Dec.* 31*st*, 1884.

The treasurer of Apache county will pay to N. Barth or order the sum of twenty 00/100 dollars for election expenses.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors."

Endorsements: " Not paid for want of funds. Presented Dec. 31st, 1884. D. Baca, treasurer; A. Ruiz, deputy. Nathan Barth, Sol. Barth."

EXHIBIT No. 27.

" No. 273. *Apache County Warrant.* $135.00.

General fund.

ST. JOHNS, A. T., *Dec.* 31*st*, 1884.

The treasurer of Apache county will pay to Sol. Barth or order the sum of one hundred and thirty-five 00/100 dollars for mdse. for the Co. poor.

LUTHER MARTIN,
Chairman Board of Supervisors.

208 CHAS. KINNEAR,
Clerk Board of Supervisors."

Endorsements: " Not paid for want of funds. Presented Dec. 31st, 1884. D. Baca, treasurer; A. Ruiz, deputy. Sol. Barth."

EXHIBIT No. 28.

" No. 280. *Apache County Warrant.* $129.50.

General fund.

ST. JOHNS, A. T., *Dec. 31st*, 1884.

The treasurer of Apache county will pay to Art. McDonald or order the sum of one hundred and twenty-nine 50/100 dollars for justice of the peace.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors."

Endorsements: "Not paid for want of funds. Presented Dec. 31st, 1884. D. Baca, treasurer; A. Ruiz, deputy. Art. McDonald."

EXHIBIT No. 29.

" No. 328. *Apache County Warrant.* $500.00.

General fund.

ST. JOHNS, A. T., *Dec. 31st*, 1884.

The treasurer of Apache county will pay to Thos. Perez or order the sum of five hundred 00/100 dollars for sheriff.

LUTHER MARTIN,
Chairman Board of Supervisors.

209 CHAS. KINNEAR,
Clerk Board of Supervisors."

Endorsements: "Not paid for want of funds. Dec. 31, 1884. D. Baca, treasurer; Alfred Ruiz, deputy treasurer. Thos. Perez, Sol. Barth."

EXHIBIT No. 30.

" No. 326. *Apache County Warrant.* $325.00.

General fund.

ST. JOHNS, A. T., *Dec. 31st*, 1884.

The treasurer of Apache county will pay to E. C. Bunch or order the sum of three hundred and twenty-five 00/100 dollars for services as probate judge.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors."

Endorsements: "Not paid for want of funds. Dec. 31, 1884. D. Baca, treasurer; Alfred Ruiz, dept. treasurer." E. C. Bunch, Sol. Barth."

EXHIBIT No. 31.

" No. 272. *Apache County Warrant.* $180.00.

General fund.

ST. JOHNS, A. T., *Dec. 31st*, 1884.

The treasurer of Apache county will pay to Sol. Barth or order the sum of one hundred and eighty 00/100 dollars for mdse. for the Co. poor.

LUTHER MARTIN,
Chairman Board of Supervisors.

210 CHAS. KINNEAR,
Clerk Board of Supervisors."

Endorsements: "Not paid for want of funds. Presented Dec. 31st, 1884. D. Baca, treasurer; A. Ruiz, deputy. Sol. Barth."

EXHIBIT No. 32.

" No. 300. *Apache County Warrant.* $45.00.

General fund.

ST. JOHNS, A. T., *Dec. 31st*, 1884.

The treasurer of Apache county will pay to A. Abeita or order the sum of forty-five 00/100 dollars for services as constable.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors."

Endorsements: "Not paid for want of funds. Presented Dec. 31st, 1884. D. Baca, treasurer; A. Ruiz, deputy. A. Abeita."

EXHIBIT No. 33.

" No. 32. *Apache County Warrant.* $121.00.

Road fund.

ST. JOHNS, A. T., *Dec. 31st*, 1884.

The treasurer of Apache county will pay to A. D. McIntosh or order the sum of one hundred and twenty-one 00/100 — for road-work.

LUTHER MARTIN,
Chairman Board of Supervisors.

211 CHAS. KINNEAR,
Clerk Board of Supervisors."

Endorsements: "Not paid for want of funds. Presented Dec. 31st, 1884. D. Baca, treasurer; A. Ruiz, deputy. A. D. McIntosh."

EXHIBIT No. 34.

" No. 321. *Apache County Warrant.* $198.00.

General fund.

ST. JOHNS, A. T., *Dec.* 31*st*, 1884.

The treasurer of Apache county will pay to B. Lopez or order the sum of one hundred & ninety-eight 00/100 dollars for board of the poor.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors."

Endorsements: "Not paid for want of funds. Presented Dec. 31st, 1884. Dionicio Baca, tesorero. Benigno Lopez."

EXHIBIT No. 35.

" No. 266. *Apache County Warrant.* $140.00.

General fund.

ST. JOHNS, A. T., *Dec.* 31*st*, 1884.

The treasurer of Apache county will pay to Roman Lopez or order the sum of one hundred and forty 00/100 dollars for services as supervisor.

LUTHER MARTIN,
Chairman Board of Supervisors.

212 CHAS. KINNEAR,
Clerk Board of Supervisors."

Endorsements: "Not paid for want of funds. Dec. 31st, 1884. Dionicio Baca, tesorero; Roman Lopez."

EXHIBIT No. 36.

" No. 302. *Apache County Warrant.* $65.00.

General fund.

ST. JOHNS, A. T., *Dec.* 31*st*, 1884.

The treasurer of Apache county will pay to Albert Miller or order the sum of sixty-five 00/100 dollars for services as constable.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors."

Endorsements: "Not paid for want of funds. Presented Dec. 31st, 1884. D. Baca, treasurer; A. Ruiz, deputy. Albert Miller."

EXHIBIT No. 37.

" No. 276. *Apache County Warrant.* $175.00.

General fund.

ST. JOHNS, A. T., *Dec.* 31*st*, 1884.

The treasurer of Apache county will pay to W. W. Wall or order the sum of one hundred and seventy-five 00/100 dollars for damages to team.

LUTHER MARTIN,
Chairman Board of Supervisors.

213 CHAS. KINNEAR,
Clerk Board of Supervisors."

Endorsements: " Not paid for want of funds. Presented Dec. 31st, 1884. D. Baca, treasurer; A. Ruiz, deputy. W. W. Wall."

EXHIBIT No. 38.

" No. 319. *Apache County Warrant.* $27.50.

General fund.

ST. JOHNS, A. T., *Dec.* 31*st*, 1884.

The treasurer of Apache county will pay to B. Lopez or order the sum of twenty-seven 50/100 dollars for election expenses.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors."

Endorsements: " Not paid for want of funds. Presented Dec. 31st, 1884. Dionicio Baca, tesorero. Benigno Lopez, Sol. Barth."

EXHIBIT No. 39.

" No. 320. *Apache County Warrant.* $27.50.

General fund.

ST. JOHNS, A. T., *Dec.* 31*st*, 1884.

The treasurer of Apache county will pay to L. Chaves or order the sum of twenty-seven 50/100 dollars for election expenses.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors."

214 Endorsements: " Not paid for want of funds. Presented Dec. 31st, 1884. D. Baca, treasurer; A. Ruiz, deputy. Luiz Chaves, Sol. Barth."

EXHIBIT No. 40.

"No. 323. *Apache County Warrant.* $20.00.

General fund.

ST. JOHNS, A. T., *Dec.* 31*st*, 1884.

The treasurer of Apache county will pay to M. Barth or order the sum of twenty 00/100 dollars for election expenses.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors."

Endorsements: "Not paid for want of funds. Presented Dec. 31st, 1884. D. Baca, treasurer; A. Ruiz, deputy. M. Barth; N. Barth (administrator.)

In the District Court of the Fourth Judicial District of the Territory of Arizona in and for Yavapai County.

JULIA BARTH, as Executrix of the Will of Jacob Barth, Deceased, Plaintiff,
vs.
APACHE COUNTY, Defendant.
} Amended Answer.

Filed in dist. court, Yav. Co., by A. J. Herndon, April 24, '96.
Filed in dist. court, Maricopa Co., by J. E. Walker, May 6th, 1896.

215 The defendant, The County of Apache, for answer to the amended complaint of plaintiff herein filed, and to each of the several of the forty counts therein contained and set up, says:

I.

That she excepts to sufficiency of the said amended complaint, and therefore demurs thereto, for the following reasons, to wit:

1. Because the said amended complaint fails to state facts sufficient to constitute a cause of action.

2. Because each and every warrant and all of the same show, upon their and each of their face, that more than five years elapsed from the date of the pretended issuance of the same and each of the same and from the time that they and each of them were presented to the treasurer of said county for payment until the bringing of this action against defendant, and therefore they and each of them and all of the same are barred by the statute of limitations.

Wherefore defendant prays judgment that plaintiff take nothing by her action herein, and for cost of this action and for all general relief.

J. F. WILSON,
Attorney for Defendant.

And for a second cause of defence defendant says:

That she denies each and every, all and singular, the allegations in the said amended complaint made, and every part thereof (except the death of the said Jacob Barth, the appointment of Julia Barth as executrix, and the presentation of the said pre-
216 tended warrants, which defendant admits), as fully and specifically as if each denial was herein pleaded at length.

2. Denies that the said forty warrants or any or either of them herein sued on and which are exhibited in said amended complaint, numbering from number 1 to number 40, inclusive, was or were ever issued or directed to be issued by the board of supervisors of the said county of Apache or by the authority of said board.

3. Denies that the said board of supervisors of said county of Apache ever ordered the issuance of said warrants herein sued on or either of them, but, on the contrary, defendant alleges the fact to be that the said pretended warrants herein sued on and each of the same and all thereof were and each of them was falsely made and forged, and that they are and each of them is a forgery, and that they were so falsely made and forged with a fraudulent intent to defraud the said county of Apache.

For a third defence herein defendant says:

That the said plaintiff herein, the alleged holder and owner of the said warrants herein sued on, and those from whom the said warrants were obtained by plaintiff, because of the fact that the said warrants and all of them were and had been by the said county of Apache alleged to be forgeries and of no binding effect upon said county, on the 9th day of January, 1888, and while the said board of supervisors of said county of Apache was in regular session at the court-house, in the town of St. Johns, in said county, presented, and caused the same to be done, the said warrants and each and
217 every of them herein sued on and marked exhibits from No. 1 to No. 40, inclusive, to the said board of supervisors as a claim and claims, as binding obligations against the said county of Apache, and upon the hearing thereof by the said board the same and each of the same were adjudged to be forgeries and were then and there disallowed and rejected as binding obligations upon said county of Apache and no proper charge against her.

That the said plaintiff and all concerned in said warrants and each of them did not appeal from said order of rejection, nor did the said plaintiff nor the said Jacob Barth, who then and there presented the said warrants and each of them to the said board for allowance, as aforesaid, did not within six months nor for ma-y years after bring action on said warrants against the said county after the final action of the said board aforesaid, as is provided in paragraphs 415, section 35, Revised Statutes of Arizona, and hence defendant here says that the said plaintiff herein should not be permitted to maintain this suit, because of the same being barred by the statute of non-claim in such cases.

Wherefore defendant prays judgment, &c., as in first paragraph of this answer.

For a fourth and special defence herein defendant says:

She denies that the said county of Apache was on the 10th day of July, 1884, or at any other time or at all, indebted to Julius Becker for the sum of sixty-nine dollars and fifty cents or any other sum.

2. Denies that on the thirteenth day of July, 1884, or at any other time or at all, the said county of Apache, by and through
218 the board of supervisors, did allow said claim for the said amount above named, and denies that the said board of supervisors on said day did cause that certain warrant of said county, No. 17, to be issued, and denied that it was ever issued by authority of said county or of said board of supervisors.

And in connection herewith defendant avers that the said pretended warrant No. 17, and made Exhibit No. 1, was not and is not genuine, but was and is a forged instrument, and was forged for the purpose of defrauding the said county of Apache.

Defendant further avers that said pretended warrant upon its face shows that more than five years have elapsed from the time the same purports to have been issued and presented to the county treasurer of said county for payment until the bringing of this action; hence defendant says *actio non*.

Wherefore defendant prays judgment, &c., as in first paragraph herein.

For a fifth and special defence to plaintiff's second cause of action defendant says:

1. Denies that about August 5th, 1884, or at any other time defendant was indebted to A. M. Boyer in the sum of $77.50 or any other sum.

2. Denies that in August, 1884, or at any other time the board of supervisors of said county, in August, 1884, or at any other time, audited said account and ordered a warrant to be issued therefore of the number 159 or of any other number.

3. Denies that said warrant was ever issued by authority of said board of supervisors, but defendant avers that the said pretended warrant was and is a forgery and therefore invalid as a claim
219 against said county, and has been so determined by said board of supervisors in the year 18—, as hereinbefore stated.

4. Avers that more than five years have elapsed since the pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of this action.

Wherefore defendant prays judgment, &c., as in first paragraph herein.

For a sixth and special defence to the third paragraph of said amended complaint defendant says:

1. Defendant denies that on August 5th, 1884, or at any other time said county was indebted to M. Barth in the sum of one hundred and thirty dollars or in any other sum.

2. Denies that the board of supervisors of said county, on August 6th or at any other time or at all, did allow said claim and order warrant to issue therefore.

3. Denies that said warrant exhibited in said third county of

plaintiff's complaint, numbered 160, was ever in fact issued or directed to be issued by the said board, but—

4. Defendant avers that said pretended warrant No. 160, and used as Exhibit No. 3 in said amended complaint, was and is a forgery and unauthorized by said county of Apache.

5. For further special defence thereto defendant avers that more than five years have elapsed since the pretended issuance of said warrant and the presentation of the same to the said treasurer of said county of Apache till the bringing of this action, and hence is barred by the statute of limitations.

Wherefore defendant prays judgment, &c., as in first paragraph herein.

220 For a seventh and special defence to the fourth paragraph of said amended complaint defendant says:

1. Defendant denies that the said county of Apache, on August 5th, 1884, or at any other time or at all, was indebted to J. H. Wilson for the sum of $137.00 or any other sum.

2. Denies that on the 6th of August, 1884, or at any other time or at all, the said board of supervisors of said county did audit and allow said account, and denies that the said board did allow, draw, and issue to the said J. H. Wilson the said sum of $137 or any other sum in the form of a warrant, No. 156 or any other number, but defendant avers that the said pretended warrant was and is a forgery and therefore invalid as a claim against said county, and has been so determined by said board of supervisors in the year 18—, as hereinbefore stated in this answer.

3. Avers that more than five years have elapsed since the pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of this action.

Wherefore defendant prays judgment, &c., as in first paragraph herein.

For an eighth and special defence to the fifth paragraphs of said amended complaint defendant says:

1. Denies that on August 5th, 1884, or at any other time or at all, defendant was indebted to J. T. Shuflin in the sum of $175.00 or any other sum.

2. Denies that on August 6th, 1884, or at any other time or at all, the said board of supervisors of said county audited and
221 allowed the said claim and directed warrant to be issued thereon for said sum, numbered 157 or any other number.

3. Denies that a warrant of $175, number 157, was ever issued by order of said board to T. J. Shuflin on August 6th, 1884, or at any other time or at all, but defendant avers that the said pretended warrant was and is a forgery and therefore invalid as a claim against said county, and has been so determined by said board of supervisors in the year 18—, as hereinbefore stated.

4. Avers that more than five years have elapsed since the pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of this action.

Wherefore defendant prays judgment, &c., as in first paragraph herein.

For a ninth and special defence to the sixth paragraph of said amended complaint defendant says:

1. Denies that on the 5th day of August, 1884, or at any other time or at all, the said county of Apache was indebted to Houck & McDonald in the sum of $121 or any other sum.

2. Denies that in August, 1884, or at any other time or at all, the board of supervisors of said county did audit or allow the said claim for the said sum of $121 or any other sum and direct warrant numbered 158 or any other number to issue therefor.

3. Denies that said warrant was ever issued by authority of said board of supervisors, but defendant avers that the said pretended warrant was and is a forgery and therefore invalid as a claim against said county, and has been so determined by said board of supervisors in the year 18—, as hereinbefore stated.

222 4. Avers that more than five years have elapsed since the pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of this action.

Wherefore defendant prays judgment, &c., as in first paragraph herein.

For a tenth and special defence to the seventh paragraph of said amended complaint defendant says:

1. Denies that on the 5th day of August, 1884, or at any other time or at all, the said county of Apache was indebted to A. B. Lambson in the sum of $284 or any other sum.

2. Denies that on August 6th, 1884, or at any other time or at all, the said board of supervisors of said county audited and allowed the said claim and directed warrant to be issued thereon for said sum, numbered 19 or any other number.

3. Denies that a warrant of $284, number 19, was ever issued by order of said board to A. B. Lambson on August 6th, 1884, or at any other time or at all, but defendant avers that the said pretended warrant was and is a forgery and therefore invalid as a claim against said county, and has been so determined by said board of supervisors in the year 18—, as hereinbefore stated.

4. Avers that more than five years have elapsed since the pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of this action.

Wherefore defendant prays judgment, &c., as in first paragraph herein.

223 For an eleventh and special defence to the eighth paragraph of said amended complaint defendant says:

1. Denies that on the 5th day of August, 1884, or at any other time or at all, the said county of Apache was indebted to John Nickolson in the sum of $58 or any other sum.

2. Denies that on August 14th, 1884, or at any other time or at all, the said board of supervisors of said county audited and allowed

the said claim and directed warrant to be issued thereon for said sum, numbered 214 or any other number.

3. Denies that a warrant for $58, numbered 214, was ever issued by order of said board to John Nicholson on August 14th, 1884, or at any other time or at all, but defendant avers that the said pretended warrant was and is a forgery and therefore invalid as a claim against said county, and has been so determined by said board of supervisors in the year 18—, as hereinbefore stated.

4. Avers that more than five years have elapsed since the pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of this action, and therefor- the same is barred by the statute of limitations.

Wherefore defendant prays judgment, &c., as in first paragraph herein.

For a twelfth and special defence to the ninth paragraph of said amended complaint defendant says:

1. Denies that on the 7th day of October, 1884, or at any other time or at all, the said county of Apache was indebted to E. D. Johnson in the sum of $96 or any other sum.

224 2. Denies that on October 8th, 1884, or at any other time or at all, the said board of supervisors of said county audited and allowed the said claim and directed warrant to be issued thereon for said sum, numbered 233 or any other number.

3. Denies that a warrant for $96, number 233, was ever issued by order of said board to E. D. Johnson on October 8th, 1884, or at any other time or at all, but defendant avers that the said pretended warrant was and is a forgery and therefore invalid as a claim against said county, and has been so determined by said board of supervisors in the year 18—, as hereinbefore stated.

4. Avers that more than five years have elapsed since the pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of this action, and therefor- the same is barred by the statute of limitations.

Wherefore defendant prays judgment, &c., as in first paragraph herein.

For a thirteenth and special defence to the tenth paragraph of said amended complaint defendant says:

1. Denies that on the 7th day of October, 1884, or at any other time or at all, the said county of Apache was indebted to Thomas Perez in the sum of $900 or any other sum.

2. Denies that on October 8th, 1884, or at any other time or at all, the said board of supervisors of said county audited and allowed the said claim and directed warrant to be issued thereon for said sum, numbered 254 or any other number.

3. Denies that a warrant for $900, number 254, was ever 225 issued by order of said board to Thomas Perez on October 8th, 1884, or at any other time or at all, but defendant avers that the said pretended warrant was and is a forgery and therefore invalid as a claim against said county, and has been so determined by said board of supervisors in the year 188–, as hereinbefore stated.

4. Avers that more than five years have elapsed since the pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of this action, and therefore the same is barred by the statute of limitations.

Wherefore defendant prays judgment, &c., as in first paragraph herein.

For a fourteenth and special defence to the eleventh paragraph of said amended complaint defendant says:

1. Denies that on the 8th day of October, 1884, or at any other time or at all, the said county of Apache was indebted to M. P. Romney in the sum of $66 or any other sum.

2. Denies that on October 8th, 1884, or at any other time or at all, the said board of supervisors of said county audited and allowed the said claim and directed warrant to be issued thereon for said sum, numbered 239 or any other number.

3. Denies that a warrant for $66, number 239, was ever issued by order of said board to M. P. Romney on October 8th, 1884, or at any other time or at all, but defendant avers that the said pretended warrant was and is a forgery and therefore invalid as a claim against said county, and has been so determined by said board of supervisors in the year 18—, as hereinbefore stated.

226 4. Avers that more than five years have elapsed since the pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of this action, and therefore the same is barred by the statute of limitations.

Wherefore defendant prays judgment, &c., as in first paragraph herein.

For a fifteenth and special defence to the twelfth paragraph of said amended complaint defendant says:

1. Denies that on the 7th day of October, 1884, or at any other time or at all, the said county of Apache was indebted to Sol. Barth in the sum of $392 or any other sum.

2. Denies that on October 8th, 1884, or at any other time or at all, the said board of supervisors of said county audited and allowed the said claim and directed warrant to be issued thereon for said sum, numbered 222 or any other number.

3. Denies that a warrant for $392, number 222, was ever issued by order of said board to Sol. Barth on October 8th, 1884, or at any other time or at all, but defendant avers that the said pretended warrant was and is a forgery and therefore invalid as a claim against said county, and has been so determined by said board of supervisors in the year 18—, as hereinbefore stated.

4. Avers that more than five years have elapsed since the pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of this action, and therefore the same is barred by the statute of limitations.

227 Wherefore defendant prays judgment, &c., as in first paragraph herein.

For a sixteenth and special defence to the thirteenth paragraph of said amended complaint defendant says:

1. Denies that on the 7th day of October, 1884, or at any other time or at all, the said county of Apache was indebted to Sol. Barth in the sum of $330 or any other sum.

2. Denies that on October 8th, 1884, or at any other time or at all, the said board of supervisors of said county audited or allowed the said claim and directed warrant to be issued thereon for said sum, numbered 232 or any other number.

3. Denies that a warrant for $330, number 232, was ever issued by order of said board to Sol. Barth on October 8th, 1884, or at any other time or at all, but defendant avers that the said pretended warrant was and is a forgery and therefore invalid as a claim against said county, and has been so determined by said board of supervisors in the year 18—, as hereinbefore stated.

4. Avers that more than five years have elapsed since the pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of this action, and therefore the same is barred by the statute of limitations.

Wherefore defendant prays judgment, &c., as in first paragraph herein.

For a seventeenth and special defence to the fourteenth paragraph of said amended complaint defendant says:

1. Denies that on the 7th day of October, 1884, or at any
228 other time or at all, the said county of Apache was indebted to John T. Hogue in the sum of $13.25 or any other sum.

2 Denies that on October 8th, 1884, or at any other time or at all, the said board of supervisors of said county audited and allowed the said claim and directed warrant to be issued thereon for said sum, numbered 236 or any other number.

3. Denies that a warrant for $13.25, number 236, was ever issued by order of said board to John T. Hogue on October 8th, 1884, or at any other time or at all, but defendant avers that the said pretended warrant was and is a forgery and therefore invalid as a claim against said county, and has been so determined by said board of supervisors in the year 18—, as hereinbefore stated.

4. Avers that more than five years have elapsed since the pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of this action, and therefore the same is barred by the statute of limitations.

Wherefore defendant prays judgment, &c., as in first paragraph herein.

For an eighteenth and special defence to the fifteenth paragraph of said amended complaint defendant says:

1. Denies that on the 7th day of October, 1884, or at any other time or at all, the said county of Apache was indebted to Charles Kinnear in the sum of $187 or any other sum.

2. Denies that on October 8th, 1884, or at any other time or at all, the said board of supervisors of said county audited and allowed

the said claim and directed warrant to be issued thereon for said sum, numbered 245 or any other number.

229 3. Denies that a warrant for $187, number 245, was ever issued by order of said board to Charles Kinnear on October 8th, 1884, or at any other time or at all, but defendant avers that the said pretended warrant was and is a forgery and therefore invalid as a claim against said county, and has been so determined by said board of supervisors in the year 18—, as hereinbefore stated.

4. Avers that more than five years have elapsed since the pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of this action, and therefore the same is barred by the statute of limitations.

Wherefore defendant prays judgment, &c., as in first paragraph herein.

For a nineteenth and special defence to the sixteenth paragraph of said amended complaint defendant says:

1. Denies that on the 7th day of October, 1884, or at any other time or at all, the said county of Apache was indebted to A. Gonzales in the sum of $98 or any other sum.

2. Denies that on October 8th, 1884, or at any other time or at all, the said board of supervisors of said county audited and allowed the said claim and directed warrant to be issued thereon for said sum, numbered 238 or any other number.

3. Denies that a warrant for $98, number 238, was ever issued by order of said board to A. Gonzales on October 8th, 1884, or at any other time or at all, but defendant avers that the said pretended warrant was and is a forgery and therefore invalid as a claim against said county, and has been so determined by said

230 board of supervisors in the year 18—, as hereinbefore stated.

4. Avers that more than five years have elapsed since the pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of this action, and therefore the same is barred by the statute of limitations.

Wherefore defendant prays judgment, &c., as in first paragraph herein.

For a twentieth and special defence and to the seventeenth paragraph of said amended complaint defendant says:

1. Denies that on the 7th day of October, 1884, or at any other time or at all, the said county of Apache was indebted to A. D. McIntosh in the sum of $30 or any other sum.

2. Denies that on October 8th, 1884, or at any other time or at all, the said board of supervisors of said county audited and allowed the said claim and directed warrant to be issued thereon for said sum, numbered 29 or any other number.

3. Denies that a warrant for $30, number 29, was ever issued by order of said board to A. D. McIntosh on October 8th, 1884, or at any other time or at all, but defendant avers that the said pretended warrant was and is a forgery and therefore invalid as a claim against said county, and has been so determined by said board of supervisors in the year 18—, as hereinbefore stated.

4. Avers that more than five years have elapsed since the pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of
231 this action, and therefore the same is barred by the statute of limitations.

Wherefore defendant prays judgment, &c., as in first paragraph herein.

For a twenty-first and special defense and to the eighteenth paragraph of said amended complaint defendant says:

1. Denies that on the 7th day of October, 1884, or at any other time or at all, the said county of Apache was indebted to William Lewis in the sum of $400 or any other sum.

2. Denies that on October 8th, 1884, or at any other time or at all, the said board of supervisors of said county audited and allowed the said claim and directed warrant to be issued thereon for said sum, numbered 31 or any other number.

3. Denies that a warrant for $400, number 31, was ever issued by order of said board to William Lewis on October 8th, 1884, or at any other time or at all, but defendant avers that the said pretended warrant was and is a forgery and therefore invalid as a claim against said county, and has been so determined by said board of supervisors in the year 18—, as hereinbefore stated.

4. Avers that more than five years have elapsed since the pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of this action, and therefore the same is barred by the statute of limitations.

Wherefore defendant prays judgment, &c., as in first paragraph herein.

232 For a twenty-second and special defence and to the nineteenth paragraph of said amended complaint defendant says:

1. Denies that on the 7th day of October, 1884, or at any other time or at all, the said county of Apache was indebted to Wm. M. Rudd in the sum of $174 or any other sum.

2. Denies that on October 8th, 1884, or at any other time or at all, the said board of supervisors of said county audited and allowed the said claim and directed warrant to be issued thereon for said sum, numbered 258 or any other number.

3. Denies that a warrant for $174, number 258, was ever issued by order of said board to Wm. M. Rudd on October 8th, 1884, or at any other time or at all, but defendant avers that the said pretended warrant was and is a forgery and therefore invalid as a claim against said county, and has been so determined by said board of supervisors in the year 18—, as hereinbefore stated.

4. Avers that more than five years have elapsed since the pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of this action, and therefore the same is barred by the statute of limitations.

Wherefore defendant prays judgment, &c., as in first paragraph herein.

For a twenty-third and special defence to the twentieth paragraph of said amended complaint defendant says:

1. Denies that on the 9th day of October, 1884, or at any other time or at all, the said county of Apache was indebted to J. T. Hogue in the sum of $25 or any other sum.

233 2. Denies that on October 9th, 1884, or at any other time or at all, the said board of supervisors of said county audited and allowed the said claim and directed warrant to be issued thereon for said sum, numbered 261 or any other number.

3. Denies that a warrant for $25, number 261, was ever issued by order of said board to J. T. Hogue on October 9th, 1884, or at any other time or at all, but defendant avers that the said pretended warrant was and is a forgery and therefore invalid as a claim against said county, and has been so determined by said board of supervisors in the year 18—, as hereinbefore stated.

4. Avers that more than five years have elapsed since the pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of this action, and therefore the same is barred by the statute of limitations.

Wherefore defendant prays judgment, &c., as in first paragraph herein.

For a twenty-fourth and special defence and to the twenty-first paragraph of said amended complaint defendant says:

1. Denies that on the 8th day of October, 1884, or at any other time or at all, the said county of Apache was indebted to Thomas Perez in the sum of $500 or any other sum.

2. Denies that on October 9th, 1884, or at any other time or at all, the said board of supervisors of said county audited and allowed the said claim and directed warrant to be issued thereon for said sum, numbered 263 or any other number.

3. Denies that a warrant for $500, number 263, was ever
234 issued by order of said board to Thomas Perez on October 9th, 1884, or at any other time or at all, but defendant avers that *that* said pretended warrant was and is a forgery and therefore invalid as a claim against said county, and has been so determined by said board of supervisors in the year 18—, as hereinbefore stated.

4. Avers that more than five years have elapsed since the pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of this action, and therefore the same is barred by the statute of limitations.

Wherefore defendant prays judgment, &c., as in first paragraph herein.

For a twenty-fifth and special defence and to the twenty-second paragraph of said amended complaint defendant says:

1. Denies that on the 8th day of October, 1884, or at any other time or at all, the said county of Apache was indebted to Wm. M. Rudd in the sum of $450 or any other sum.

2. Denies that on October 9th, 1884, or at any other time or at

all, the said board of supervisors of said county audited and allowed the said claim and directed warrant to be issued thereon for said sum, numbered 264 or any other number.

3. Denies that a warrant for $450, number 264, was ever issued by order of said board to Wm. M. Rudd on October 9th, 1884, or at any other time or at all, but defendant avers that the said pretended warrant was and is a forgery and therefore invalid as a claim against said county, and has been so determined by
235 said board of supervisors in the year 18—, as hereinbefore stated.

4. Avers that more than five years have elapsed since the pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of this action, and therefore the same is barred by the statute of limitations.

Wherefore defendant prays judgment, &c., as in first paragraph herein.

For a twenty-sixth and special defence and to the twenty-third paragraph of said amended complaint defendant says:

1. Denies that on the 11th day of August, 1884, or at any other time or at all, the said county of Apache was indebted to W. W. Berry in the sum of $58 or any other sum.

2. Denies that on August 12th, 1884, or at any other time or at all, the said board of supervisors of said county audited and allowed the said claim and directed warrant to be issued thereon for said sum, numbered 166 or any other number.

3. Denies that a warrant for $58, number 166, was ever issued by order of said board to W. W. Berry on August 12th, 1884, or at any other time or at all, but defendant avers that the said pretended warrant was and is a forgery and therefore invalid as a claim against said county, and has been so determined by said board of supervisors in the year 18—, as hereinbefore stated.

4. Avers that more than five years have elapsed since the pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of this action, and therefore the same is barred by the statute of limitations.

Wherefore defendant prays judgment, &c., as in first paragraph herein.

236 For a twenty-seventh and special defence and to the twenty-fourth paragraph of said amended complaint defendant says:

1. Denies that on 30th day of December, 1884, or at any other time or at all, the said county of Apache was indebted to Sol. Barth in the sum of $91.50 or any other sum.

2. Denies that on December 31st, 1884, or at any other time or at all, the said board of supervisors of said county audited and allowed the said claim and directed warrant to be issued thereon for said sum, numbered 311 or any other number.

3. Denies that a warrant for $91.50, number 311, was ever issued by order of said board to Sol. Barth on December 31st, 1884, or at any other time or at all, but defendant avers that the said pretended warrant was and is a forgery and therefore invalid as a claim against

said county, and has been so determined by said board of supervisors in the year 18—, as hereinbefore stated.

4. Avers that more than five years have elapsed since the pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of this action, and therefore the same is barred by the statute of limitations.

Wherefore defendant prays judgment, &c., as in first paragraph herein.

For a twenty-eighth and special defence and to the twenty-fifth paragraph of said amended complaint defendant says:

1. Denies that on the 30th day of December, 1884, or at any other time or at all, the said county of Apache was indebted to Thomas Perez in the sum of $800 or any other sum.

2. Denies that on December 31st, 1884, or at any other time
237 or at all, the said board of supervisors of said county audited and allowed the said claim and directed warrant to be issued thereon for said sum, numbered 325 or any other number.

3. Denies that a warrant for $800, number 325, was ever issued by order of said board to Thomas Perez on December 31st, 1884, or at any other time or at all, but defendant avers that the said pretended warrant was and is a forgery and therefore invalid as a claim against said county, and has been so determined by said board of supervisors in the year 18—, as hereinbefore stated.

4. Avers that more than five years have elapsed since the pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of this action, and therefore the same is barred by the statute of limitations.

Wherefore defendant prays judgment, &c., as in first paragraph herein.

For a twenty-ninth and special defence and to the twenty-sixth paragraph of said amended complaint defendant says:

1. Denies that on the 30th day of December, 1884, or at any other time or at all, the said county of Apache was indebted to N. Barth in the sum of $20 or any other sum.

2. Denies that on December 31st, 1884, or at any other time or at all, the said board of supervisors of said county audited and allowed the said claim and directed warrant to be issued thereon for said sum, numbered 321 or any other number.

3. Denies that a warrant for $20, number 324, was ever issued by order of said board to N. Barth on December 31st, 1884, or at
238 any other time or at all, but defendant avers that the said pretended warrant was and is a forgery and therefore invalid as a claim against said county, and has been so determined by said board of supervisors in the year 18—, as hereinbefore stated.

4. Avers that more than five years have elapsed since the pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of this action, and therefore the same is barred by the statute of limitations.

Wherefore defendant prays judgment, &c., as in first paragraph herein.

For a thirtieth and special defence and to the twenty-seventh paragraph of said amended complaint defendant says:

1. Denies that on the 30th day of December, 1884, or at any other time or at all, the said county of Apache was indebted to Sol. Barth in the sum of $135 or any other sum.

2. Denies that on December 31st, 1884, or at any other time or at all, the said board of supervisors of said county audited and allowed the said claim and directed warrant to be issued thereon for said sum, numbered 273 or any other number.

3. Denies that a warrant for $135, number 273, was ever issued by order of said board to Sol. Barth on December 31st, 1884, or at any other time or at all, but defendant avers that the said pretended warrant was and is a forgery and therefore invalid as a claim against said county, and has been so determined by said board of supervisors in the year 18—, as hereinbefore stated.

239 4. Avers that more than five years have elapsed since the pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of this action, and therefore the same is barred by the statute of limitations.

Wherefore defendant prays judgment, &c., as in first paragraph herein.

For a thirty-first and special defence and to the twenty-eighth paragraph of said amended complaint defendant says:

1. Denies that on the 30th day of December, 1884, or at any other times or at all, the said county of Apache was indebted to Art McDonald in the sum of $129.50 or any other sum.

2. Denies that on December 31st, 1884, or at any other time or at all, the said board of supervisors of said county audited and allowed the said claim and directed warrant to be issued thereon for said sum, numbered 280 or any other number.

3. Denies that a warrant for $129.50, number 280, was ever issued by order of said board to Art McDonald on December 31st, 1884, or at any other time or at all, but defendant avers that the said pretended warrant was and is a forgery and therefore invalid as a claim against said county, and has been so determined by said board of supervisors in the year 18—, as hereinbefore stated.

4. Avers that more than five years have elapsed since the pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of this action, and therefore the same is barred by the statute of limitations.

Wherefore defendant prays judgment, &c., as in first paragraph herein.

240 For a thirty-second and special defence and to the twenty-ninth paragraph of said amended complaint defendant says:

1. Denies that on the 30th day of December, 1884, or at any other time or at all, the said county of Apache was indebted to Thomas Perez in the sum of $500 or any other sum.

2. Denies that on December 31st, 1884, or at any other time or at all, the said board of supervisors of said county audited and allowed

the said claim and directed warrant to be issued thereon for said sum, numbered 329 or any other number.

3. Denies that a warrant for $500, number 329, was ever issued by order of said board to Thomas Perez on December 31st, 1884, or at any other time or at all, but defendant avers that the said pretended warrant was and is a forgery and therefore invalid as a claim against said county, and has been so determined by said board of supervisors in the year 18—, as hereinbefore stated.

4. Avers that more than five years have elapsed since the pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of this action, and therefore the same is barred by the statute of limitations.

Wherefore defendant prays judgment, &c., as in first paragraph herein.

For a thirty-third and special defence and to the thirtieth paragraph of said amended complaint defendant says:

1. Denies that on the 30th day of December, 1884, or at any other time or at all, the said county of Apache was indebted to E. C. Bunch in the sum of $325 or any other sum.

241 2. Denies that on December 31st, 1884, or at any other time or at all, the said board of supervisors of said county audited and allowed the said claim and directed warrant to be issued thereon for said sum, numbered 326 or any other number.

3. Denies that a warrant for $325, number 326, was ever issued by order of said board to E. C. Bunch on December 31st, 1884, or at any other time or at all, but defendant avers that the said pretended warrant was and is a forgery and therefore invalid as a claim against said county, and has been so determined by said board of supervisors in the year 18—, as hereinbefore stated.

4. Avers that more than five years have elapsed since the pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of this action, and therefore the same is barred by the statute of limitations.

Wherefore defendant prays judgment, &c., as in first paragraph herein.

For a thirty-fourth and special defence and to the thirty-first paragraph of said amended complaint defendant says:

1. Denies that on the 30th day of December, 1884, or at any other time or at all, the said county of Apache was indebted to Sol. Barth in the sum of $180 or any other sum.

2. Denies that on December 31st, 1884, or at any other time or at all, the said board of supervisors of said county audited and allowed the said claim and directed warrant to be issued thereon for said sum, numbered 272 or any other number.

3. Denies that a warrant for $180, number 272, was ever issued by order of said board to Sol. Barth on December 31st, 1884, or at any other time or at all, but defendant avers that the said

242 pretended warrant was and is a forgery and therefore invalid as a claim against said county, and has been so determined

by said board of supervisors in the year 18—, as hereinbefore stated.

4. Avers that more than five years have elapsed since the pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of this action, and therefore the same is barred by the statute of limitations.

Wherefore defendant prays judgment, etc., as in first paragraph herein.

For a thirty-fifth and special defence and to the thirty-second paragraph of said amended complaint defendant says:

1. Denies that on the 30th day of December, 1884, or at any other time or at all, the said county of Apache was indebted to A. Abeita in the sum of $45 or any other sum.

2. Denies that on December 31st, 1884, or at any other time or at all, the said board of supervisors of said county audited and allowed the said claim and directed warrant to be issued thereon for said sum, numbered 300 or any other number.

3. Denies that a warrant for $45, number 300, was ever issued by order of said board to A. Abeita on December 31st, 1884, or at any other time or at all, but defendant avers that the said pretended warrant was and is a forgery and therefore invalid as a claim against said county, and has been so determined by said board of supervisors in the year 18—, as hereinbefore stated.

4. Avers that more than five years have elapsed since the
243 pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of this action, and therefore the same is barred by the statute of limitations.

Wherefore defendant prays judgment, &c., as in first paragraph herein.

For a thirty-sixth and special defence and to the thirty-third paragraph of said amended complaint defendant says:

1. Denies that on the 30th day of December, 1884, or at any other time or at all, the said county of Apache was indebted to A. D. McIntosh in the sum of $121.00 or any other sum.

2. Denies that on December 31st, 1884, or at any other time or at all, the said board of supervisors of said county audited and allowed the said claim and directed warrant to be issued thereon for said sum, numbered 32 or any other number.

3. Denies that a warrant for $121, number 32, was ever issued by order of said board to A. D. McIntosh on December 31st, 1884, or at any other time or at all, but defendant avers that the said pretended warrant was and is a forgery and therefore invalid as a claim against said county, and has been so determined by said board of supervisors in the year 18— as hereinbefore stated.

4. Avers that more than five years have elapsed since the pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of this action, and therefore the same is barred by the statute of limitations.

Wherefore defendant prays judgment, &c., as in first paragraph herein.

244 For a thirty-seventh and special defence and to the thirty-fourth paragraph of said amended complaint defendant says:

1. Denies that on the 30th day of December, 1884, or at any other time or at all, the said county of Apache was indebted to B. Lopez in the sum of $198 or any other sum.

2. Denies that on December 31st, 1884, or at any other time or at all, the said board of supervisors of said county audited and allowed the said claim and directed warrant to be issued thereon for said sum, numbered 321 or any other number.

3. Denies that a warrant for $198, number 321, was ever issued by order of said board to B. Lopez on December 31st, 1884, or at any other time or at all, but defendant avers that the said pretended warrant was and is a forgery and therefore invalid as a claim against said county, and has been so determined by said board of supervisors in the year 18—, as hereinbefore stated.

4. Avers that more than five years have elapsed since the pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of this action, and therefore the same is barred by the statute of limitations.

Wherefore defendant prays judgment, &c., as in first paragraph herein.

For a thirty-eighth and special defence and to the thirty-fifth paragraph of said amended complaint defendant says:

1. Denies that on the 30th day of December, 1884, or at any other time or at all, the said county of Apache was indebted to Roman Lopez in the sum of $140 or any other sum.

245 2. Denies that on December 31st, 1884, or at any other time or at all, the said board of supervisors of said county audited and allowed the said claim and directed warrant to be issued thereon for said sum, numbered 266 or any other number.

3. Denies that a warrant for $140, number 266, was ever issued by order of said board to R. Lopez on December 31st, 1884, or at any other time or at all, but defendant avers that the said pretended warrant was and is a forgery and therefore invalid as a claim against said county, and has been so determined by said board of supervisors in the year 18—, as hereinbefore stated.

4. Avers that more than five years have elapsed since the pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of this action, and therefore the same is barred by the statute of limitations.

Wherefore defendant prays judgment, &c., as in first paragraph herein.

For a thirty-ninth and special defence and to the thirty-sixth paragraph of said amended complaint defendant says:

1. Denies that on the 30th day of December, 1884, or at any other

time or at all, the said county of Apache was indebted to Albert Miller in the sum of $65 or any other sum.

2. Denies that on December 31st, 1884, or at any other time or at all, the said board of supervisors of said county audited and allowed the said claim and directed warrant to be issued thereon for said sum, numbered 302 or any other number.

3. Denies that a warrant for $65, number 302, was ever issued by order of said board to Albert Miller on December 31st, 1884,
246 or at any other time or at all, but defendant avers that the said pretended warrant was and is a forgery and therefore invalid as a claim against said county, and has been so determined by said board of supervisors in the year 18—, as hereinbefore stated.

4. Avers that more than five years have elapsed since the pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of this action, and therefore the same is barred by the statute of limitations.

Wherefore defendant prays judgment, &c., as in first paragraph herein.

For a fortieth and special defence and to the thirty-seventh paragraph of said amended complaint defendant says:

1. Denies that on the 30th day of December, 1884, or at any other time or at all, the said county of Apache was indebted to W. W. Wall in the sum of $175 or any other sum.

2. Denies that on December 31st, 1884, or at any other time or at all, the said board of supervisors of said county audited and allowed the said claim and directed warrant to be issued thereon for said sum, numbered 276 or any other number.

3. Denies that a warrant for $175, number 276, was ever issued by order of said board to W. W. Wall on December 31st, 1884, or at any other time or at all, but defendant avers that the said pretended warrant was and is a forgery and therefore invalid as a claim against said county, and has been so determined by said board of supervisors in the year 18—, as hereinbefore stated.

247 4. Avers that more than five years have elapsed since the pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of this action, and therefore the same is barred by the statute of limitations.

Wherefore defendant prays judgment, &c., as in first paragraph herein.

For a forty-first and special defence and to the thirty-eighth paragraph of said amended complaint defendant says:

1. Denies that on the 30th day of December, 1884, or at any other time or at all, the said county of Apache was indebted to B. Lopez in the sum of $27.50 or any other sum.

2. Denies that on December 31st, 1884, or at any other time or at all, the said board of supervisors of said county audited and allowed the said claim and directed warrant to be issued thereon for said sum, numbered 319 or any other number.

3. Denies that a warrant for $27.50, number 319, was ever issued by order of said board to B. Lopez on December 31st, 1884, or at any other time or at all, but defendant avers that the said pretended warrant was and is a forgery and therefore invalid as a claim against said county, and has been so determined by said board of supervisors in the year 18—, as hereinbefore stated.

4. Avers that more than five years have elapsed since the pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of this action, and therefore the same is barred by the statute of limitations.

Wherefore defendant prays judgment, &c., as in first para-
248 graph herein.

For a forty-second and special defence and to the thirty-ninth paragraph of said amended complaint defendant says:

1. Denies that on the 30th day of December, 1884, or at any other time or at all, the said county of Apache was indebted to L. Chaves in the sum of $27.50 or any other sum.

2. Denies that on December 31st, 1884, or at any other time or at all, the said board of supervisors of said county audited and allowed the said claim and directed warrant to be issued thereon for said sum, numbered 320 or any other number.

3. Denies that a warrant for $27.50, number 320, was ever issued by order of said board to L. Chaves on December 31st, 1884, or at any other time or at all, but defendant avers that the said pretended warrant was and is a forgery and therefore invalid as a claim against said county, and has been so determined by said board of supervisors in the year 18—, as hereinbefore stated.

4. Avers that more than five years have elapsed since the pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of this action, and therefore the same is barred by the statute of limitations.

Wherefore defendant prays judgment, &c., as in first paragraph herein.

For a forty-third and special defence and to the fortieth paragraph of said amended complaint defendant says:

1. Denies that on the 30th day of December, 1884, or at any
249 other time or at all, the said county of Apache was indebted to M. Barth in the sum of $20 or any other sum.

2. Denies that on December 31st, 1884, or at any other time or at all, the said board of supervisors of said county audited and allowed the said claim and directed warrant to be issued thereon for said sum, numbered 323 or any other number.

3. Denies that a warrant for $20, number 323, was ever issued by order of said board to M. Barth on December 31st, 1884, or at any other time or at all, but defendant avers that the said pretended warrant was and is a forgery and therefore invalid as a claim against said county, and has been so determined by said board of supervisors in the year 18—, as hereinbefore stated.

4. Avers that more than five years have elapsed since the pretended issuance of the same and the presentation thereof to the treasurer of said county for payment until the bringing of this action, and therefore the same is barred by the statute of limitations.

Wherefore defendant prays judgment, &c., as in first paragraph herein.

And wherefore defendant prays generally:

1. That plaintiff take nothing by this action.

2. That the said warrants herein sued on and declared on separately in separate counts, as appears in the said amended complaint herein filed, and which are separately answered in said amended answer herein, as appears therein, and which are of the following amounts and dates, to wit:

250 $69.50, July 12th, 1884; $77.50, August 6th, 1884; $130, August 6th, 1884; $137, August 6th, 1884; $175, August 6th, 1884; $121, August 6th, 1884; $284, August 7th, 1884; $58, August 15th, 1884; $96, October 9th, 1884; $900, November 7th, 1884; $66, October 8th, 1884; $392, November 6th, 1884; $330, November 7th, 1884; $13.25, October 8th, 1884; $187, October 8th, 1884; $98, October 9th, 1884; $30, October 8th, 1884; $400, October 8th, 1884; $174, October 9th, 1884; $25, October 9th, 1884; $500, December 31st, 1884; $450, December 31st, 1884; $58, August 15th, 1884; $91.50, December 31st, 1884; $800, December 31st, 1884; $20, December 31st, 1884; $135, December 31st, 1884; $129.50, December 31st, 1884; $500, December 31st, 1884; $325, December 31st, 1884; $180, December 31st, 1884; $45, December 31st, 1884; $121, December 31st, 1884; $198, December 31st, 1884; $140, December 31st, 1884; $65, December 31st, 1884; $175, December 31st, 1884; $27.50, December 31st, 1884; $27.50, December 31st, 1884; $20, December 31st, 1884, be found to have been forged and decreed to be unauthorized as valid claims against the said county of Apache, and therefore of no binding force against her.

3. That they and each of them be adjudged to be barred by the statute of limitations and of the statute of non-claim as well, and therefore of no binding effect against said county.

4. That said defendant go hence without day, and have and recover of and from plaintiff all of her cost, and for all general and proper relief.

J. F. WILSON,
Attorney for Defendant.

251 TERRITORY OF ARIZONA, }
County of Maricopa. }

N. Gonzales, being duly sworn, says—

That he is the clerk of the board of supervisors of the county of Apache, in the Territory of Arizona, and the custodian of the records of said board.

That he has heard read the above and foregoing answer of The County of Apache, defendant in the above and foregoing action, and that the facts therein stated as defenses to the various causes

of action declared on are true and the warrants sued on are not genuine.

N. GONZALES.

Subscribed and sworn to before me this the 6th day of May, 1896.

[SEAL.] J. E. WALKER, *Clerk.*

Received from T. W. Johnston three & 75/100 dollars, plaintiff's costs in full in the case of Julia Barth, as executrix, etc., *vs.* Apache County.

Prescott, Arizona Territory, May 2nd, 1896.

Filed by—

A. J. HERNDON,
Clerk Dist. Court, 4th Jud. Dist., Yavapai County, Arizona Territory,
By WM. WILKERSON, *Deputy.*

252 In the District Court of the Fourth Judicial District of the Territory of Arizona in and for the County of Yavapai.

JACOB BARTH, Plaintiff,
vs.
APACHE COUNTY, Defendant. } Record of Transfer in Apache County.

Filed May 6th, 1896, by J. E. Walker, clerk.

MARCH 30TH, 1896.

Comes this cause on for hearing upon the oral motion of Julia Barth, as executrix of the last will of Jacob Barth, deceased, to revive and continue this action in her name; and comes said Julia Barth, by her attorney-, T. W. Johnston and E. M. Sanford, and the defendant, by its attorney, J. F. Wilson; and it appearing that Jacob Barth has departed this life, and that Julia Barth was, on March 2nd, 1896, by the probate court of Yavapai county, Arizona Territory, duly appointed the executrix of the last will of said Jacob Barth, and has since qualified as such executrix, it is—

Ordered that plaintiff have leave to file an amended complaint herein, which is accordingly done.

And now comes the respective parties, by their attorneys, and consent to a change of place of trial of this cause from this court to the district court of the third judicial district of this Territory in and for the county of Maricopa; whereupon, on cause shown, to wit, the judge of this court having been of counsel in the case, and by consent of the parties, it is—

Ordered that the venue of this action be, and the same is
253 hereby, changed to the said district court of Maricopa county, and the clerk of this court is ordered to forthwith transmit the papers and transcript of the proceedings in the case to the clerk of the district court of said Maricopa county.

TERRITORY OF ARIZONA, } ss:
County of Yavapai, }

I, A. J. Herndon, clerk of said court, do hereby certify that the above and foregoing is a true and correct copy of the proceedings had in said case, as appears of record in my office; and I further certify that the original record in said cause consists of an original complaint, filed September 10th, 1891, marked "A."

Original answer, filed September 24th, 1891, marked "B."

Amended answer, filed October 7th, 1892, marked "C."

Amended complaint, filed March 30th, 1896, marked "D."

Amended answer, filed April 24th, 1896, marked "E."

Deposition of Julia Barth, filed September 6th, 1895, marked "F."

Deposition of Sol. Barth, filed with warrants sued on attached thereto, filed November 12th, 1895, marked "G."

Undertaking for costs on change of venue, filed September 6th, 1891, marked "H."

Receipt for costs, filed September 6th, 1891, marked "I."

Notice of application and application for change of venue, filed September 10th, 1891, marked "J."

Order granting change of venue, filed September 26th, 1891, marked "K."

Order transferring case fram Coconino county to Yavapai county, marked "L."

254 Minute entries of proceedings in Coconino county district court, marked "M."

Original summons, filed September 19th, 1891, marked "N."

And I further certify that the costs in this case have been paid.

In witness whereof I have hereunto set my hand and affixed my official seal on this 2nd day of May, 1896.

[SEAL.] A. J. HERNDON, *Clerk*,
By WM. WILKERSON, *Deputy*.

In the District Court of the Third Judicial District of the Territory of Arizona for Maricopa County.

JULIA BARTH, Plaintiff,
vs.
APACHE COUNTY, Defendant. } Motion to Reinstate Case.

Filed Dec. 28th, 1896, by J. E. Walker, clerk.

Comes now said plaintiff, and by her attorneys, and moves the court that the order in said case heretofore entered dismissing the same be set aside, and that said case be replaced upon the calendar and its *status quo* be re-established, for the reason that said order was entered by the court under the misapprehension that such was the motion and wish of said plaintiff.

T. W. JOHNSTON &
E. M. SANFORD,
Attorneys for Plaintiff.

255 In the District Court of the Fourth Judicial District of the Territory of Arizona in and for the County of Yavapai.

JULIA BARTH, as Executrix of the Estate of Jacob Barth, Deceased, Plaintiff,
vs.
APACHE COUNTY, Defendant.
} Affidavit of L. H. Chalmers.

Filed March 20th, 1897, by J. E. Walker, clerk.

I, L. H. Chalmers, being first duly sworn, depose and say that on the 20th day of March, 1897, I called upon J. F. Wilson at his office, in Phœnix, Arizona, in order to submit the judgment herein to him for approval, and found him absent from the city of Phœnix; that I have notified him by telegram, at Prescott, A. T., that judgment has been rendered herein, and have left this day a copy of the judgment in his office, and also mailed him a copy of said judgment to Prescott, Arizona.

L. H. CHALMERS.

Subscribed and sworn to before me this 20th day of March, 1897.

[SEAL.] J. E. WALKER, *Clerk.*

256 In the District Court of the Fourth Judicial District of the Territory of Arizona in and for the County of Yavapai.

JULIA BARTH, as Executrix of the Will of Jacob Barth, Deceased, Plaintiff,
vs.
APACHE COUNTY, Defendant.
} Judgment.

Filed March 20th, 1897, by J. E. Walker, clerk.

On this the 6th day of May, 1896, at Phœnix, Maricopa county, Arizona Territory, before Hon. A. C. Baker, judge of the third judicial district of said Territory, came on to be heard the above-entitled cause on amended complaint filed March 30th, 1896, and amended answer filed May 6th, 1896, the said day being a day in the regular May term of said district court for the year 1896, and, a jury in said case having been by the parties thereto expressly waived, the same was tried before the judge of said court, the plaintiff being represented by T. W. Johnston and E. M. Sanford, and the defendant by the district attorney of Apache county and J. F. Wilson; and evidence having been introduced, both oral-y and documentary, and the court, being fully advised of the law and facts in the premises, doth find:

1. That the plaintiff in open court admitted that the figures on the following-described warrants indicating the amount thereof, as well as the writing on the face of the warrants giving the
257 amount thereof, had been altered and changed after the issuance of said warrants, and having admitted that such

alteration and changes in said warrants vitiated and caused them to cease to be valid claims against said defendant: therefore the court doth find that said warrants, to wit:

Warrant No. 159, Exhibit 2 herein, for $77.50, and
Warrant No. 160, Exhibit 3 herein, for $130.00, and
Warrant No. 156, Exhibit 4 herein, for $137.00, and
Warrant No. 157, Exhibit 5 herein, for $175.00, and
Warrant No. 158, Exhibit 6 herein, for $121.00, and
Warrant No. 166, Exhibit 23 herein, for $58.00, and
Warrant No. 273, Exhibit 27 herein, for $135.00, and
Warrant No. 272, Exhibit 31 herein, for $180.00, and
Warrant No. 32, Exhibit 33 herein, for $121.00, and
Warrant No. 321, Exhibit 34 herein, for $198.00, and
Warrant No. 266, Exhibit 37 herein, for $140.00,

have been altered as to the figures on the face thereof representing the amount thereof, and as to the writing thereof representing the amounts therefor, before the issuance thereof, each of them is hereby declared to be vitiated, and it is therefore by the court ordered, adjudged, and decreed that the plaintiff do have and recover of and from the defendant nothing by his complaint in so far as it is based upon the above-described warrants, and that said above-described warrants be by the said plaintiff surrendered to the clerk of the court for cancelation.

2. And the court doth further find that all of the warrants sued on in the said amended complaint except those heretofore herein described are valid, subsisting, and legal claims against the said defendant, Apache County, and that plaintiff, according to
258 the prayer of her said complaint, is entitled to recover of and from the said defendant the face value of each of said warrants, together with interest thereon, at the rate of 10% per annum until paid, from the date on which each of said warrants was presented to the treasurer of said Apache county for payment and payment thereof refused because of lack of funds; and the court further finds that each of said warrants was presented to the treasurer of said Apache county and the payment thereof for lack of funds was by said treasurer refused at the date hereinafter respectively mentioned:

Therefore it is by the court ordered, adjudged, and decreed that the plaintiff do have and recover of and from the said defendant, Apache County—

$69.50 as principal of warrant No. 17, Exhibit 1 herein, described in plaintiff's first cause of action herein, and interest thereon, at 10% per annum, from the 12th day of July, 1884, to wit, $88.15 *dollars*, aggregating the sum of $157.65.

And the further sum of $284 as principal of warrant No. 19, Exhibit 7 herein, described in plaintiff's seventh cause of action herein, and interest thereon, at the rate of 10% per annum, from the 6th day of August, 1884, to wit, 340.80 dollars, aggregating the sum of $624.80.

And the further sum of $58 as principal of warrant No. 214, Exhibit 8 herein, described in plaintiff's eighth cause of action herein

and interest thereon, at the rate of 10 % per annum, from the 15th day of August, 1884, to wit, 73 & 6/100 dollars, aggregating the sum of $131.06.

And the further sum of $96.00 as principal of warrant
259 No. 233, Exhibit 9 herein, described in plaintiff's ninth cause of action herein, and interest thereon, at the rate of 10 % per annum, from the 9th day of October, 1884, to wit, 119 & 49/100 dollars, aggregating the sum of $215.49.

And the further sum of $900 as principal of warrant No. 254, Exhibit 10 herein, described in plaintiff's tenth cause of action herein, and interest thereon, at the rate of 10 % per annum, from the 7th day of November, 1884, to wit, 1,113 & 25/100 dollars, aggregating the sum of $2,013.25.

And the further sum of $66.00 as principal of warrant No. 239, Exhibit 11 herein, described in plaintiff's eleventh cause of action herein, and interest thereon, at the rate of 10 % per annum, from the 8th day of October, 1884, to wit, $82 & 17/100, aggregating the sum of $148.17.

And the further sum of $392.00 as principal of warrant No. 222, Exhibit 12 herein, described in plaintiff's twelfth cause of action herein, and interest thereon, at the rate of 10 % per annum, from the 6th day of November, 1884, to wit, 485 & 00/100 dollars, aggregating the sum of $877.

And the further sum of $330 as principal of warrant No. 232, Exhibit 13 herein, described in plaintiff's thirteenth cause of action herein, and interest thereon, at the rate of 10 % per annum, from the 7th day of November, 1884, to wit 408 & 19/100 dollars, aggregating the sum of $738.19.

And the further sum of $13.25 as principal of warrants No. 236, Exhibit 14 herein, described in plaintiff's fourteenth cause of action herein, and interest thereon, at the rate of 10 % per annum, from the 8th day of October, 1884, to wit, 16 & 43/100 dollars, aggregating the sum of $29.68.

260 And the further sum of $187 as principal of warrant No 245, Exhibit 15 herein, described in plaintiff's fifteenth cause of action herein, and interest thereon, at the rate of 10 % per annum, from the 8th day of October, 1884, to wit, 232 & 82/100 dollars, aggregating the sum of $419.82.

And the further sum of $98 as principal of warrants No. 238, Exhibit 16 herein, described in plaintiff's sixteenth cause of action herein, and interest thereon, at the rate of 10 % per annum, from the 9th day of October, 1884, to wit, 121 & 98/100 dollars, aggregating the sum of $219.98.

And the further sum of $30 as principal of warrant No. 29, Exhibit 17 herein, described in plaintiff's seventeenth cause of action herein, and interest thereon, at the rate of 10 % per annum, from the 8th day of October, 1884, to wit, 37 & 35/100 dollars, aggregating the sum of $67.35.

And the further sum of $400 as principal of warrants No. 31, Exhibit 18 herein, described in plaintiff's eighteenth cause of action herein, and interest thereon, at the rate of 10 % per annum,

from the 8th day of October, 1884, to wit, 498 & 00/100 dollars, aggregating the sum of $898.00.

And the further sum of $174 as principal of warrant No. 258, Exhibit 19 herein, described in plaintiff's nineteenth cause of action herein, and interest thereon, at the rate of 10 % per annum, from the 9th day of October, 1884, to wit, 216 & 59/100 dollars, aggregating the sum of $390.59.

261 And the further sum of $25 as principal of warrant No. 261, Exhibit 20 herein, described in plaintiff's twentieth cause of action herein, and interest thereon, at the rate of 10 % per annum, from the 9th day of October, 1884, to wit, 29 & 12/100 dollars, aggregating the sum of $54.12.

And the further sum of $500 as principal of warrant No. 263, Exhibit 21 herein, described in plaintiff's twenty-first cause of action herein, and interest thereon, at the rate of 10 % per annum, from the 31st day of December, 1884, to wit, 610 & 97/100 dollars, aggregating the sum of $1,110.97.

And the further sum of $450 as principal of warrant No. 264, Exhibit 22 herein, described in plaintiff's twenty-second cause of action herein, and interest thereon, at the rate of 10 % per annum, from the 31st day of December, 1884, to wit, 549 & 87/100 dollars, aggregating the sum of $999.87.

And the further sum of $91.50 as principal of warrant No. 311, Exhibit 24 herein, described in plaintiff's twenty-fourth cause of action herein, and interest thereon, at the rate of 10 % per annum, from the 31st day of December, 1884, to wit, 111 & 80/100 dollars, aggregating the sum of $203.30.

And the further sum of $800 as principal of warrant No. 325, Exhibit 25 herein, described in plaintiff's twenty-fifth cause of action herein, and interest thereon, at the rate of 10 % per annum, from the 31st day of December, 1884, to wit, 977 & 55/100 dollars, aggregating the sum of $1,777.55.

262 And the further sum of $20 as principal of warrant No. 324, Exhibit 26 herein, described in plaintiff's twenty-sixth cause of action herein, and interest thereon, at the rate of 10 % per annum, from the 31st day of December, 1884, to wit, 24 & 44/100 dollars, aggregating the sum of $44.44.

And the further sum of $129.50 as principal of warrant No. 280, Exhibit 28 herein, described in plaintiff's twenty-eighth cause of action herein, and interest thereon, at the rate of 10 % per annum, from the 31st day of December, 1884, to wit, 158 & 23/100 dollars, aggegating the sum of $287.73.

And the further sum of $500 as principal of warrant No. 329, Exhibit 29 herein, described in plaintiff's twenty-ninth cause of action herein, and interest thereon, at the rate of 10 % per annum, from the 1st day of December, 1884, to wit, 610 & 97/100 dollars, aggregating the sum of $1,110.97.

And the further sum of $325 as principal of warrant No. 326, Exhibit 30 herein, described in plaintiff's thirtieth cause of action herein, and interest thereon, at the rate of 10 % per annum, from

the 31st day of December, 1884, to wit, 397 & 13/100 dollars, aggregating the sum of $722.13.

And the further sum of $45 as principal of warrant No. 300, Exhibit 32 herein, described in plaintiff's thirty-second cause of action herein, and interest thereon, at the rate of 10 % per annum, from the 31st day of December, 1884, to wit, 54 & 99/100 dollars, aggregating the sum of $99.99.

263 And the further sum of $140 as principal of warrant No. 266, Exhibit 35 herein, described in plaintiff's thirty-fifth cause of action herein, and interest thereon, at the rate of 10 % per annum, from the 31st day of December, 1884, to wit, 170 & 12/100 dollars, aggregating the sum of $310.12.

And the further sum of $65 as principal of warrant No. 302, Exhibit 36 herein, described in plaintiff's thirty-sixth cause of action herein, and interest thereon, at the rate of 10 % per annum, from the 31st day of December, 1884, to wit, 79 & 42/100 dollars, aggregating the sum of $144.42.

And the further sum of $27.50 as principal of warrant No. 319, Exhibit 38 herein, described in plaintiff's thirty-eighth cause of action herein, and interest thereon, at the rate of 10 % per annum, from the 31st day of December, 1884, to wit, 33 & 60/100 dollars, aggregating the sum of $61.10.

And the further sum of $27.50 as principal of warrant No. 320, Exhibit 39 herein, described in plaintiff's thirty-ninth cause of action herein, and interest thereon, at the rate of 10 % per annum, from the 31st day of December, 1884, to wit, 33 & 60/100 dollars, aggregating the sum of $61.10.

And the further sum of $20 as principal of warrant No. 323, Exhibit 40 herein, described in plaintiff's fortieth cause of action herein, and interest thereon, at the rate of 10 % per annum, from the 31st day of December, 1884, to wit, 24 & 44/100 dollars, aggregating the sum of $44.44.

Total, $14,352.13.

264 Which said principal sum, $6,438.75, and accrued interest up to the date of this judgment, to wit, the 20th day of March, 1897, $7,913.38, aggregating the sum of 14,352 & 13/100 dollars, which said sum of 14,352 & 13/100 dollars it is hereby by this court ordered, adjudged, and decreed that said plaintiff have and recover of and from said defendant, together with interest on 6,438 & 75/100 dollars, at the rate of ten per cent. per annum, from this date until paid, and interest on 7,913 & 38/100 dollars, at the rate of 7 % per annum, from this date until paid, and for the additional sum of thirty-four 25/100 — ($34.25), as costs in this cause necessarily expended by plaintiff, as appears from the costs bill on file herein.

It is further order- by the court that the above-described warrants be by the plaintiff to the clerk of this court surrendered and by said clerk cancelled.

Ordered, adjudged, and decreed in open court on this 20th day of March, 1897.

A. C. BAKER,
District Judge.

In the District Court, Third Judicial District of the Territory of Arizona, in and for the County of Maricopa.

JULIA BARTH, Executrix of the Will of Jacob Barth, Deceased, Plaintiff, *against* APACHE COUNTY, Defendant. } Judgment-roll.

I, the undersigned, clerk of the district court of the third
265 judicial district of Arizona Territory in and for Maricopa county, do hereby certify the foregoing to be a true copy of the judgment entered in the above-entitled action and recorded in Judgment Book F of said court, at page 108.

And I further certify that the foregoing papers hereto annexed constitute the judgment-roll in said action.

Witness my hand and seal of the district court this 18th
[SEAL.] day of December, A. D. 1897.

EDWIN S. GILL, *Clerk.*

In the District Court of the Fourth Judicial District of the Territory of Arizona in and for the County of Yavapai.

JULIA BARTH, as Executrix of the Will of Jacob Barth, Deceased, Plaintiff, *vs.* APACHE COUNTY, Defendant. } Costs & Disbursements.

Filed March 22nd, 1897, by J. E. Walker, clerk.

TERRITORY OF ARIZONA, *County of Maricopa,* } *ss.:*

T. W. Johnston, after being first duly sworn, deposes and says that he is the attorney for the plaintiff in the foregoing action, and that he makes this affidavit as plaintiff is a non-resident of
266 the said Territory and is now inaccessible, and that there has been by said plaintiff necessarily expended in said cause the following sums of money, to wit:

Clerk's costs	$9.50
Clerk's costs, Yavapai county	3.75
Sheriff's costs	
Paid court reporter	
Typewriting original complaint	*[20.00]
Typewriting amended complaint	*[35.00]
Expense of deposition	7.50
Reporter's fees	13.50
Aggregating the sum of	*[$72.00]
April 3rd, 1897, amended	34.25

*[Figures enclosed in brackets erased in copy.]

Affiant further states that the various amounts above stated are given upon information and belief.

T. W. JOHNSTON,
Att'y for Pl'ffs.

Subscribed and sworn to before me this 20th day of March, 1897.
[SEAL.] E. S. CLARK,
Notary Public.

My commission expires Feb'y 6th, 1901.

267 In the District Court of Maricopa County, Arizona Territory.

JULIA BARTH, Executrix, &c., Plaintiff,
vs.
APACHE COUNTY, Defendant.
} Motion to Retax Costs.

Filed March 22nd, 1897, by J. E. Walker, clerk.

The defendant herein comes and shows to the court that in this action the plaintiff has filed cost bill against defendant, wherein the following items of cost appear, to wit:

Typewriting original complaint.....	$20.00
Typewriting amended complaint.....	35.00
	$55.00

The same being a charge of $55.00 for the writing of the pleadings of plaintiff herein, and which are not proper charges for costs in this action.

Wherefore defendant moves the court to retax the same against defendant and relieved from the burden of the same in the judgment herein rendered or to be rendered.

APACHE COUNTY,
By counsel, J. F. WILSON.

In the District Court of the Third Judicial District of the Territory of Arizona in and for the County of Maricopa.

JULIA BARTH, Executrix of the Will of Jacob Barth, Deceased, Plaintiff,
vs.
APACHE COUNTY, Defendant.
} No. 2619. Minute Entries.

— March 22nd, 1897, by J. E. Walker, clerk.

268 Be it remembered that on Wednesday, May 6th, 1896, that being a regular judicial day of the May term, A. D. 1896, of the said court in and for the said county and Territory then holden, the above-entitled cause coming on regularly for trial, the parties to this cause being present in open court—

The following record of this case for this day was made, to wit:

Title of Cause.

Comes now this cause on to be heard upon the amended complaint filed herein and demurrer contained in the amended answer of the defendant; comes the plaintiff, by his attorneys, Messrs. T. W. Johnston and E. M. Stanford, Esq., and the defendant by Gen. J. F. Wilson, Esq., and after hearing the argument of the counsels for the respective parties the court takes the demurrer under advisement, and thereupon, subject to the decision of said demurrer, this cause is, by consent of the parties, submitted to the court without intervention of a jury, and the plaintiff, to maintain the issue upon its part joined, offered in evidence forty warrants, being the warrants sued upon, together with their grounds of defense contained in amended answer, and rests her case.

And thereupon the defendant asked leave to file a verified answer; which motion was by the court granted, and the verification was filed instanter.

Thereupon the defendant produced A. F. Pastus and N. Gonzales, who were sworn and testified and introduced documentary evidence, and rested.

Thereupon counsel for respective parties argued the case to the court, and the court took the same under advisement.

269 Be it further remembered that on Monday, November 6th, 1896, that being a regularly judicial day of the November term, A. D. 1896, of the said court in and for the said county and Territory then holden—

The following record of this case for this day was made, to wit:

Title of Cause.

The court on its own motion orders that this cause be dismissed.

Be it further remembered that on Monday, January 11th, 1897, that being a regularly judicial day of the November term, A. D. 1896, of the said court in and for the said county and Territory then holden, the following record of this case for this day was made, to wit:

Title of Cause.

On motion of counsel for plaintiff, it is ordered by the court that the order heretofore made dismissing this cause is hereby rescinded and cause reinstated upon the docket.

Be it further remembered that on Saturday, March 20th, 1897, that being a regularly judicial day of the November term, A. D. 1896, of the said court in and for the said county and Territory then holden, the following record of this case for this day was made, to wit:

Title of Cause.

270 This cause having heretofore been tried, submitted, and by the court taken under advisement, now, on this day, it is ordered by the court that judgment be entered for the plaintiff as

prayed for, less the amounts of warrants No. 159, 160, 157, 158, 166, 273, 272, 32, 321, 266.

Be it further remembered that on Monday, March 29th, 1897, that being a regularly judicial day of the November term, A. D. 1896, of the said court in and for the said county and Territory then holden, the following record of this case for this day was made, to wit:

Title of Cause.

On motion of counsel for defendant, it is ordered that the motion for a new trial and the motion to retax costs be set for hearing on Saturday, April 3rd, 1897.

Be it further remembered that on Saturday, April 3rd, 1897, that being a regularly judicial day of the November term, A. D. 1896, of the said court in and for the said county and Territory then holden, the following record of this case for this day was made, to wit:

Title of Cause.

The motion to retax cost bill in this cause was presented, argued to the court by counsel, and submitted, and after due consideration it is ordered by the court that said cost bill be amended by striking out items of cost bill—typewriting original complaint, $20.00, and typewriting amended complaint, $35.00—and adding thereto clerk's costs in Yavapai county, $3.75, and reporter's fees, $13.50, making total amount of cost bill $34.25 instead of $72.00.

271 Be it further remembered that on Saturday, April 3rd, 1897, that being a regularly judicial day of the November term, A. D. 1896, of the said court in and for the said county and Territory then holden, the following record of this case for this day was made, to wit:

Title of Cause.

The motion for a new trial in this cause was presented to the court, argued by T. W. Johnston, for the plaintiff, and Hon. J. F. Wilson, for the defendant, and submitted, and after due consideration of the cause it is ordered by the court that said motion for a new trial be overruled; to which ruling of the court defendant, by its counsel, duly excepted, and gave notice in open court of an appeal from the judgment and order overruling motion for a new trial to the supreme court of the Territory of Arizona.

Be it further remembered that on Friday, September 17th, 1897, that being a regularly judicial day of the May term, A. D. 1897, of the said court in and for the said county and Territory then holden, the following record of this case for this day was made, to wit:

Title of Cause.

On motion of T. W. Johnston, Esq., counsel for plaintiff, it is ordered by the court that plaintiff be allowed to withdraw the war-

rants offered in evidence and marked as exhibits in this cause by submitting copies therefor.

272 In the District Court of the County of Maricopa, Territory of Arizona.

JULIA BARTH, as Executrix of Jacob Barth, Deceased, Plaintiff,
vs.
APACHE COUNTY, Defendant.
} Motion for New Trial.

Filed March 22nd, 1897, by J. E. Walker, clerk.

The defendant, The County of Apache *County*, in the Territory of Arizona, comes and moves the court to set aside the findings and judgment herein rendered and grant her a new trial herein for the following reasons, to wit:

First.

Because the court erred in finding against the defendant's plea of the statute of limitation herein pleaded, and in not considering the same, and in rendering judgment against defendant over the said plea of the statute of limitation pleaded against the plaintiff's various causes of action herein set up in defendant's demurrer.

Second.

Because the court erred in not sustaining defendant's plea of limitation set up against the plaintiff's several causes of action set up in her said complaint, and each of the same.

Third.

Because the court erred in finding that the said warrants sued on in plaintiff's complaint, and each of the same, on which
273 judgment in this action is rendered was legally issued.

Fourth.

Because the court erred in finding against the plea of defendant that the said warrants and each of them was forged and not of any binding effect on said defendant.

Fifth.

Because the findings of the court and the judgment in this action rendered are contrary to the evidence in the cause, are against the evidence, as shown by the record and the face of the several warrants sued on, and *is* contrary to the law in the case, and because the court erred in overruling defendant's motion for new trial.

Whereupon defendant prays, &c.

J. F. WILSON,
Att'y for Defendant.

And for further cause for this motion and prayer for new trial herein J. F. Wilson on oath says that he is the attorney for the defendant in this action and has had the control of the same ever since the same has been pending in this court.

That on the — day of November, 1896, this cause was dismissed out of this court, and of which defendant had notice, and according to information received by announcement by the court from the bench the plaintiff also had notice of the said dismissal; that the defendant relied on the action of dismissal and paid no further attention to further proceedings at all and expected none.

That the defendant or, at least, defendant's counsel was never notified in any way whatever of any intention on the part of any one or of any party whomsoever to reinstate the said action
274 in this court, and that the first notice of any other action in the premises whatever was by telegram at Prescott on the eve of the 20th day of March, 1897, that this judgment was so rendered.

That the whole of the proceedings had herein after the said dismissal of this action was entirely unknown to defendant or counsel for defendant.

That had defendant known of the reinstatement of this action permission would have been asked to make proof of the further fact learned by newly discovered evidence that the plaintiff herein suing is not the real plaintiff in interest in this action, but that one Sol. ——, who was accused and convicted for the forgery, *of* some of which is in this action pleaded, and sentenced to the territorial prison in the year 1887, is the real beneficiary of this action.

Wherefore defendant prays for new trial herein, &c.

J. F. WILSON.

Subscribed and sworn to this March 22nd, 1897.

[SEAL.]

J. E. WALKER,
Clerk Dist. Court,
By C. H. KNAPP,
Deputy Clerk.

In the District Court of Maricopa County, Arizona.

JULIA BARTH, as Administrator, Plaintiff,
vs.
APACHE COUNTY, Defendant.

No. 2619. Affidavit of E. M. Sanford.

Filed April 3rd, 1897, by J. E Walker, clerk.

275 *Affidavit of E. M. Sanford on Motion for a New Trial.*

TERRITORY OF ARIZONA,
County of Yavapai, } ss:

E. M. Sanford, of lawful age, being duly sworn, deposes and says: I am and have been for more than one year last past an attorney for the plaintiff in the above-entitled action; that when plaintiff's

attorneys received information that the court had, upon its own motion, dismissed said action for the reason that the court believed that the matters in litigation had been compromised and settled, they caused the motion to be filed for an order reinstating said cause upon the docket of said court, and orally informed attorney for defendant that they would cause said motion to be brought on for hearing at that term of court, to wit, at the term of court at which said order was made dismissing said cause. Afterwards and on the day of reinstatement of said cause, affiant was in the court-room of the said court, in the court-house, at Phœnix, Arizona, and present at that time thereat was the Hon. J. F. Wilson, attorney for the defendant, when this affiant then and there called up said motion for reinstatement of said cause for hearing, and thereupon the Hon. A. C. Baker, the trial judge of said cause, in the presence of counsel for the defendant, stated in open court from the bench that there had been an error in the dismissal of the case; that at the time that the court made said dismissal the court was laboring under the impression that the litigation had been compro-
276 mised and settled, and that the court had dismissed the case, upon its own motion, for that reason, and thereupon the court ordered the case to be reinstated in that court. Affiant further says that he has not been served with any motion or notice of any motion on the part of the defense to set aside the order of said court reinstating the said case therein; and further affiant says nought.

E. M. SANFORD.

Subscribed and sworn to before me this twenty-ninth day of March, 1897.

[SEAL.] MOSES B. HAZELTINE,
Notary Public.

My commission expires July 24th, 1899.

In the District Court, County of Maricopa, Territory of Arizona.

JULIA BARTH, as Executrix of Jacob Barth, Deceased, Plaintiff,
vs.
APACHE COUNTY, Defendant.
} Affidavit of T. W. Johnston.

Filed April 3rd, 1897, by J. E. Walker, clerk.

Before the undersigned personally appeared T. W. Johnston, who, after being first duly sworn, deposes and says:

1. That he is counsel of record for the plaintiff in the foregoing suit, and referring to the motion for a new trial therein filed
277 on the 22nd day of March, 1897, affiant states that the first information which he received of the dismissal of this suit by the court of its own motion in November was given to him at Prescott, in December, 1896, by J. F. Wilson, attorney for defendant, and at that time J. F. Wilson stated that the judge of the court had dismissed the suit upon the presumption that the plaintiff so desired

and that the matter had been settled, and at that interview affiant stated to J. F. Wilson that he would immediately move to have the case reinstated on the calendar, as the court had acted under a misapprehension.

2. Affiant further states that as soon as practicable after receiving said information from J. F. Wilson affiant caused to be filed a motion to reinstate said cause, and filed the same with the clerk of said court, together with affiant's affidavit that the court in dismissing the case had acted under a misapprehension; which said motion was in due course brought to the attention of the court, in open session, in January, 1897, and was by the court sustained, and said case was reinstated.

And affiant further says that he knows that J. F. Wilson, attorney for defendant, was informed of affiant's intention to cause said case to be reinstated, and he believes that said J. F. Wilson knew perfectly well that said motion had been made and that said case had been reinstated.

3. Affiant further states that as counsel he has been connected with this case from its inception and personally prepared the original complaint filed in Apache county at the institution of the suit, and was personally acquainted with Jacob Barth, the hus-
278 band of the present plaintiff, and affiant personally knows that long prior to the institution of said suit Jacob Barth was the holder and owner of the warrants sued on and had presented the same to the supervisors of Apache county for funding, together with other warrants issued at the same time, and that some of the warrants so presented for funding were by said supervisors funded and the bonds therefor issued, delivered to Jacob Barth, and that he, and after his death, Julia Barth, plaintiff in said case, have, from a date prior to the institution of this suit up to now, been the exclusive owners of said warrants, and that the said plaintiff is now the exclusive owner of said warrants, and that Sol. Barth does not own them nor has he any interest in them, nor has he ever during the pendency of this litigation exercised any acts of control over said case or said warrants; but that affiant's professional conduct throughout this litigation has been controlled exclusively by the direction of the said Julia Barth, plaintiff in said cause.

T. W. JOHNSTON,
Att'y for Plaintiff.

Subscribed and sworn to before me on this the 27th day of March, 1897.

[SEAL.]

H. D. AITKEN,
Notary Public.

279 In the District Court of the Third Judicial District of the Territory of Arizona in and for the County of Maricopa.

JULIA BARTH, Executrix, Plaintiff,
vs.
APACHE COUNTY, Defendant. } # 2619.

Filed Dec. 17, 1897, by Lloyd Johnston, clerk supreme court.

Transcript of Testimony.

Trial May 6th, 1896.
Filed April 21st, 1897.

J. E. WALKER, *Clerk.*

In the District Court of the Third Judicial District of the Territory of Arizona in and for the County of Maricopa.

JULIA BARTH, Plaintiff,
vs.
APACHE COUNTY, Defendant. } No. —.

Tried and submitted to the court without the intervention of a jury before his honor A. C. Baker, judge of said court, Wednes-
280 day, May 6th, A. D. 1896, at Phœnix, A. T.

An action to compel payment of forty county warrants alleged to have been issued by order of the board of supervisors of Apache county, Arizona Territory, during 1884.

Appearances: T. W. Johnston, Esq., and E. M. Sandford, Esq., attorneys for plaintiff; J. F. Wilson, att'y gen'l, attorney for def't.

Proceedings reported by Chas. H. Holmes, court reporter, third dist., Territory of Arizona.

Title of the Court and Cause.

An action by the executrix of Jacob Barth, deceased, to compel payment of certain county warrants (40) of Apache county, Arizona Territory, alleged to have been issued by the board of supervisors of said county in 1884, and upon presentation disallowed by said board.

Title of the Court and Cause.

Be it remembered that on Wednesday, the 6th day of May, 1896, that being a regular judicial day of said court — and the third day of said court then holden within said county and Territory
281 aforesaid, the within-entitled cause coming on regularly to be heard, parties to this case being present in open court and represented by their counsel, respectively, T. W. Johnston, Esq., and E. M. Sanford, Esq., attorneys for plaintiff, and J. F. Wilson, attorney general, attorney for defendant, to maintain the issues by them joined, said parties offered in evidence the testimony and documentary evidence as hereinafter fully set out in this transcript of the proceedings of said trial, same being reduced from court reporter's shorthand notes, taken upon the trial of said cause.

That upon the introduction of said testimony and documentary evidence the following objections were interposed by counsel for the respective parties thereto, rulings by the court made, and exceptions to said rulings taken and noted at the times and in the manner as hereinafter fully set out in this transcript of testimony, which is as follows, to wit:

Hearing upon the amended complaint herein filed and the demurrer contained in the amended answer of the defendant.

By the COURT: Are you ready in this case of Barth *vs.* Apache County?

By Mr. T. W. JOHNSTON: The plaintiff is ready, your honor.

By General WILSON: The defendant is ready.

By the COURT: Very well, you may proceed.

By MR. JOHNSTON: I will read the complaint. (Reads.) I have read causes of action one and nine, your honor, and I will state for the purpose of saving time that they are all the same, and will not read the rest.

By General WILSON: The answer, if your honor please, is
282 a general denial. The complaint is one setting forth the cause of each action in a general way, and then there is a declaration upon each of the separate causes of action. I think three or four of them is upon the road fund, one on the contingent fund, and the rest of the warrants are upon the general fund, but the style of them is the same. They declare when the warrant was issued, when it was presented to the county treasurer for payment, and the fact that payment was refused, and thereupon the accrueing of the cause of action against the county; that is the proposition which they assert separately upon each of these forty warrants.

Again they declare that on the 9th day of January, 1888, in obedience to the notice that was published by the county providing for the taking up of all the outstanding valid indebtedness, that they presented to the county board of supervisors all and each of those warrants, and that upon a hearing of the same the county did refuse to pay them or recognise them as a valid indebtedness, and refused to take them up and rejected them.

We gather also another proposition that comes within the statute that we have plead, and that is, that the cause of action begun to accrue more than five years before the commencement of this suit; then to that we have made this kind of an answer, omitting the caption of the case. The defendant thereto pleads limitation under the statute and cites paragraph 2314, section 18.

(After hearing the arguments of counsel for the respective parties at length the court took the demurrer under advisement, and thereupon, subject to the decision on said demurrer, this cause was by consent of the parties submitted to the court without the intervention of a jury.)

283 By the COURT: Go ahead with the merits of the case.

By General WILSON: There is one other question that I want to present. There is the general denial, and then there is the

special denial to each of these warrants. We plead that there were no such warrants ever issued or directed to be issued by the board of supervisors of Apache county, as they have set up here. Now, the question is, in that state of pleadings, Are they not bound to assume the *onus probandi* in this matter?

The COURT remarked: I don't know as it matters with me. Each party takes his own course as to the practice. I am ready to hear proof on the merits of the case.

By Mr. JOHNSTON: The contrary is decided in the 4 Southern Reporter.

By General WILSON: Well, I don't know as it makes any difference to me.

By Mr. SANFORD: We will offer in evidence each one of these forty warrants plead upon, and at the same time, for the purpose of explaining the brand-marks placed upon them in red ink, we offer in evidence the third defense contained in the defendant's amended answer for the purpose of showing their character and who placed the marks there; they were placed there by the defendant.

By General WILSON: We must certainly object to the introduction of these warrants. This offer is evidence of their demand. It bears no public seal, no solemn evidence of the indebtedness; that bears the name of forgery upon its face, and I saw we object
284 to it and object to being bound by these papers; they are immaterial, incompetent, and improper.

By Mr. SANFORD: The statute of 1877 did not require the seal to be attached to the warrants, and an admission of the answer is that the debtor placed the word forgery on there.

(Counsel presented authorities showing that the presentation of warrants makes out a *prima facie* case—41 Alabama and the Arkansas case establishing the validity of warrants and authorizing their payment. Defendant urged his objection.)

The COURT remarked: They are quasi judgments. Do you wish to reply, General?

General WILSON: Yes, your honor. When they presented those instruments for allowance it shows that no allowance was made by the board, and there is no record of the board to show they were allowed or even ordered to be issued, and plead it, shall he say that that warrants is issued? There is something besides the warrant; there is the word forgery written across the face of it; it bears the marks of forgery, and we say that they should show that the board did authorize the issuance of it.

By the COURT: What is the answer?

By General WILSON: We deny that the county of Apache ever issued such a warrant, or that the board of supervisors ever authorized that warrant or any of them to be issued.

By the COURT: But your answer doesn't purport to show
285 why this word forgery was written across the face of those warrants?

By General WILSON: Nothing, except that the board pronounced them forgeries.

By the COURT: Is the answer verified?

By Mr. SANFORD: No, sir.

By the COURT: I will take the evidence subject to your objections and give the ruling hereafter.

The warrants being admitted were thereupon identified by numbers as plaintiff's exhibits consecutively from 1 to 40, both inclusive, the court further remarking:

In addition to the face of the warrants, they show that they were presented to the treasurer for payment and not paid for want of funds. It looks like it is a *prima facie* evidence that they are warrants which were issued (copies of which are hereto attached).

By General WILSON: Does the court hold that because the answer is not verified?

By the COURT: The ruling is not final, but the evidence is taken by the court, subject to your objections, for further ruling.

By General WILSON: Then I will ask leave of the court at this time to have the answer verified. I want to protect my client in every particular, this answer having been drawn before I came into the case.

286 By the COURT: Very well; you can verify it now or hereafter.

By Mr. SANFORD: Then that throws the burden upon the plaintiff, and we object to that.

By the COURT: The minutes will show that the evidence is admitted subject to the objection, and that leave is granted defendant to amend.

Plaintiffs then and there excepted to the ruling of the court in granting the leave to amend.

Plaintiffs rest.

By General WILSON: I will verify this answer during noon hour, which is at hand, and they may not then want to close their case, when that is done.

By the COURT: Very well; that will be the understanding; having seen the amendment, they may reopen their case if they choose. We will adjourn to 2 o'clock p. m.

Court thereupon adjourned.

Afternoon Session.

WEDNESDAY, MAY 6TH, 1896.

In open district court, Justice Baker being upon the bench, parties to this cause present and represented by their respective counsel, the following proceedings were had:

By the COURT: Are you ready to proceed with the case?

By General WILSON: We are ready, your honor. (The
287 amendment is made, in that the answer is verified.) And I think that on the verified answer the onus is on them to proceed. However, I am not particular about the order in which it goes

in. I think, though, that the onus is on them, but that will be a matter for argument later on. I would like to have Gonzales sworn.

Mr. N. GONZALES, a witness called on behalf of the defense, being duly sworn and examined, testified as follows, to wit:

Examination by General WILSON:

—. What official position do you occupy?

A. I am county recorder and *ex officio* clerk of the board of supervisors of Apache county.

Q. And you are the custodian of the records of the board of supervisors of Apache county?

A. Yes, sir.

Q. Is that the record of their proceedings which you now hold in your hands?

By Mr. SANFORD: We will admit the record without proof.

By General WILSON: Will you please refer to that record. You have seen the list of the warrants sued on, have you?

A. Yes, sir.

Q. Can you state whether that list of warrants or any of them are shown to be of record in that record?

A. No, sir; they are not.

By Mr. SANFORD: We object to that as incompetent and irrelevant.

288 By General WILSON: Then turn to the record and show it from the record.

A. No; I cannot.

Q. Is it mutilated?

A. Yes, sir; it is.

By Mr. SANFORD: Then we object to the introduction of the record.

(WITNESS, continuing:) There is none of the record of the year 1884 that appears in this record; it is mutilated, cut out, and gone (exhibiting the record to the court).

By General WILSON: Do you know whether or not the board of supervisors attempted in the year following to reinstate that record?

A. Yes; I believe so.

Q. Will you refer to the page of that record, 202, and let the court see that order? Just read it.

By Mr. JOHNSTON: We object to that because it is a record subsequently made and it is incompetent and irrelevant.

By General WILSON: The object of that is that the attention of the court shall be called to the mutilation of the record and of the fact of their effort to reinstate it.

By the COURT: That may be taken subject to the objection.

Plaintiffs except to the ruling of the court.

Adjourned meeting of the board of supervisors, held July 31st, 1885.

The board of supervisors met at ten o'clock, July 31st, 1885, pursuant to adjournment—present, Henry Huning, Ernest
289 Tee; absent, W. B. Leonard—when the following proceedings were had, to wit:

On motion, J. W. Scaggs was appointed justice of the peace for Holbrook precinct, vice Art McDonald, removed from precinct—Messrs. Huning and Tee voting aye, Mr. Leonard being absent and not voting.

On motion, Frank J. Watron was appointed constable for Holbrook precinct—Huning and Tee voting aye; noes, none; absent and not voting, W. J. Leonard.

On motion, the clerk of the board of supervisors was directed to restore all the minutes of the board of supervisors or such as can be found, and that said minutes be written at length on this minute book, beginning in this book at page 110.

Q. Can you state whether they ever found any of that record and reinstated it?

A. I don't believe they ever found it.

Q. Do you know whether or not the board of supervisors of Apache county during that year 1885 canvassed that county relative to the forgery of thos- county warrants then being out?

A. Yes, sir.

Q. Did they take any action relative to those warrants?

A. Yes, sir.

By Mr. SANFORD: We object to that testimony as incompetent and irrelevant.

(No ruling by the court.)

By General WILSON: What action did they take? If you know of any order will you read it?

Plaintiffs object further that the board of supervisors had
290 no authority to make such an order and there is no provision in law for it.

By General WILSON: Read the order.

A. October 21st, 1885. At ten o'clock a meeting of the board of supervisors was had pursuant to adjournment—present, the entire board—when the following proceedings were had, to wit:

Whereas it has come to the knowledge of the board of supervisors that certain warrants of this county have been raised, counterfeited, altered, changed, and fraudulently put into circulation, greatly to the damage of the county of Apache; and

Whereas one Sol. Barth has been indicted by the grand jury of the county of Yavapai and one Charles Kinnear has been indicted by the grand jury of Apache county, both of them charged with the forging and altering of such warrants; and

Whereas it is largely to the interest of the said county of Apache that said indictments be thoroughly prosecuted and the guilty parties brought to justice; and

Whereas it has been deemed advisable and for the best interests of said county of Apache and the people thereof that Clark Churchill be employed as special counsel to aid in the prosecution of said indictments and other indictments and complaints against said parties and others charged with the perpetration of said offenses as shall hereafter be made and found: now, and in consideration of the premises, it is by the board resolved that said Clark Churchill be, and he is hereby, retained and employed by the county of Apache and by this board in its behalf as special counsel to prosecute said cases and having consideration of the agreement of said Clark Churchill now made with the board to act as special counsel to aid in the prosecution of said causes.

291 It is hereby agreed that the said county of Apache will pay to the said Clark Churchill the sum of $2,000.00 in county warrants, which was passed by the following vote: Huning, Leonard, and Tee voting ayes; noes, none.

Plaintiff moves to strike out the foregoing testimony for the reason that the warrants are not identified, and that it is a statement of the debtor made without any consent of the creditor.

The motion to strike out was denied, the court remarking: I will let it stay there. I will be bound to let it in at some time, and it may remain subject to the objection.

Plaintiff excepts to the ruling of the court.

By General WILSON: I want the order with respect to where the board mentioned the fraudulent warrants and directed that they be not paid. Turn to page 253. Have you an order there?

A. Yes; there is an order here.

Q. Read it to the court.

Plaintiffs object to the reading of that part of the record for the same reasons as just given.

By the COURT: It will be taken subject to the objection.

A. The board met pursuant to adjournment—present, Huning and Tee; absent, Leonard—when the following proceedings were had, to wit: Julius Becker, E. D. Johnson, E. C. Bunch, Benigno Lopez, and Luther Martin were examined before the board in regard to certain county warrants of Apache county, under oath, which warrants are supposed to be fraudulent, the testimony of said witnesses being taken in writing.

292 It appearing to the board from said testimony that there is reasonable cause to believe that the warrants examined are fraudulent, the board instructed the district attorney to notify the county treasurer not to pay any of said warrants.

By General WILSON:

Q. What is the date of that order?

A. It is the 19th of March, 1885, and then they adjourned to the next day, the 20th.

Plaintiffs move the court to strike out this evidence, for it is made at a special meeting of the board, and it is not made as provided by

law, and the description, number, or amounts of the warrants *was* not specified, and the board of supervisors had no authority to make the order.

The objection was overruled; to which ruling plaintiffs then and there excepted.

By General WILSON: Can you state or do you know whether or not any warrants or alleged warrants outside of the year 1884 was ever alleged to be fraudulent by that board?

A. No, sir; I don't know of any.

Q. Do you know whether or not any of those warrants alleged to be issued, as shown to be on that record or any other record, is allowed?

A. There is nothing in the record.

Q. Is there any order upon the record showing that there was any order for the issuance of either of these warrants?

A. No, sir.

Plaintiffs object to that. (No ruling.)

By General WILSON:

293 Q. Go to that order on page 419 and read it to the court.

A. Yes; I have it.

Q. What is the order there—what is the date of it?

A. January 9th, 1898.

Plaintiffs make the same objection to the introduction of this order as to the former one. Same ruling by the court.

The following warrants presented by J. Barth, after being examined by the board, were found to be invalid and were marked forgery, and the treasurer was directed by the board to return said warrants so marked to J. Barth.

Q. Will you admit that these are the warrants in controversy? Well, just read them.

A. No. 17 is on the road fund; it was issued July 13th, 1884, for $69.50; No. 214, general fund, Aug. 14th, 1884, $58.00; No. 166, issued Aug. 12, '84, $58.00; 19, road fund, Aug. 6th, $284.00.

These are all 1884 warrants:

156.	General fund, Aug. 6	$137.00
158.	General fund, Aug. 6	121.00
29.	General fund, Oct. 8	30.00
32.	Road fund, Dec. 31st	121.00
232.	General fund, Oct. 8th	330.00
236.	General fund, Oct. 8th	13.25
239.	General fund, Oct. 8th	66.00
254.	General fund, Oct. 8th	900.00
263.	General fund, Oct. 9th	500.00
272.	General fund, Dec. 31	180.00
276.	General fund, Dec. 31	175.00
311.	General fund, Dec. 31	91.50
321.	General fund, Dec. 31	198.00
324.	General fund, Dec. 31	20.00

326. General fund, Dec. 31.. ..... 325.00
280. General fund, Dec. 31..... ..... 129.00
157. General fund, Aug. 6..... ..... 175.00
160. General fund, Aug. 6..... ..... 130.00
31. General fund, Oct. 8..... ... 400.00
222. General fund, Oct. 8..... ..... 392.00
233. General fund, Oct. 8... ... . 96.00
238. General fund, Oct. 8..... ..... 98.00
245. General fund, Oct. 8..... ... 187.00
261. General fund, Oct. 9..... ..... 25.00
266. General fund, Dec. 31..... ..... 140.00

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273. General fund, Dec. 31st 135.00
319. General fund, Dec. 31st 27.50
320. General fund, Dec. 31st 27.50
232. General fund, Dec. 31st 20.00
325. General fund, Dec. 31st 800.00
328. General fund, Dec. 31st 500.00
300. General fund, Dec. 31st 45.00

The following warrants, presented by J. Barth, were held under advisement: 159, issued on general fund Aug. 6th, 1884, $77.50; No. 258, Oct. 8th, 1884, for $174.00; No. 264, drawn on the general fund Oct. 9th, 1884, $150.00; No. 268, on general fund, same date, $137.00; No. 302, on general fund, Dec. 31st, 1884, $65.00.

On motion, the board adjourned till tomorrow. Signed by Earnest Tee, chairman. Attest: William T. Dalby, clerk of board.

Plaintiff moves to strike out the foregoing evidence for the reason that the board of supervisors had no authority to make such an order.

The motion was denied and same taken under and subject to the objection.

By General WILSON:

Q. I believe you say that the record of the board of supervisors shows no order for the issuance of any of these warrants?

A. No, sir.

Q. And you have examined the record to see?

A. Yes, sir.

Q. And it nowhere shows it?

A. No, sir.

Q. I will ask you another question: Was there any warrants ever issued by the county or pretended to be issued by that county of Apache, except those of 1884 that were forged?

295 A. No, sir.

Q. Or rejected by the board?

A. No, sir.

Plaintiff objects to that unless the witness personally knows it,

and moves to strike it out for the reason that it is incompetent and irrelevant.

By the COURT: I will take the motion with the other objections and rule upon them later on.

By General WILSON: That is all.

Cross-examination.

By Mr. T. W. JOHNSTON:

Q. You say that the record of Apache county don't show the issuance of any of these warrants?

A. No, sir.

Q. Referring to the record of 1884, at the date of the issuance of these warrants, what does it show—refer to that?

A. It shows that the record is mutilated.

Q. And there isn't any such record there?

A. No, sir.

Q. Then can you say that in 1884 or in 1883 there wasn't a record of the board of supervisors of that county, allowing the claims on which each of these warrants were based?

A. No, sir.

Q. Have you any personal knowledge upon that subject?

A. No, sir; all I know is that the record is destroyed.

296 Q. You haven't any personal knowledge of the fact and the record of the board for the years 1883 and 1884 don't show that the claims were allowed on which the warrants were issued?

A. No, sir. The only record is that commencing in 1885; from there back there is no record for 1884 and 1883.

Q. Then that is what you mean by saying that the record don't show it?

A. Yes, sir. The leaves are cut out and gone.

Q. And you have no personal knowledge on the subject?

A. No, sir.

Q. How long have you been county recorder of that county?

A. It is going on two years. It is a little more than a year—that is, since January 1st, 1895.

That is all.

Redirect examination:

By General WILSON: Have you examined the prior records to that record you have there?

A. Well, no, sir; not prior to this one, for this one is the first one that the board has.

Q. Is that the first one that the board has?

A. Yes, sir.

Q. Then the records of 1884 prior to that are destroyed?

A. Yes, sir; they must have been because they don't appear in the office.

Q. Then there is no record of orders for 1884?

A. No, sir.

Q. Do you know anything about how that destruction came about or the record came to be mutilated?

A. No, sir; I do not.

Q. Who were the members of the board of supervisors of
297 that county for 1884?

A. I don't know. In 1885 the book shows, I believe, that the board was composed of Mr. Huning, Tee, and Leonard; that is for 1885, but I don't know who they were for the year 1884.

That is all.

Recross-examination.

By Mr. JOHNSTON:

Q. Do you know Henry Huning, who was chairman of that board?

A. Yes, sir.

Q. Isn't he now alive and doesn't he live at Showlow?

A. Yes, sir. The last I knew of him, I heard that he was alive.

Q. Don't you know that he is alive and that he is living in Apache county today?

A. I think he lives there.

Q. And Mr. Tee is likewise living there?

A. Yes, sir.

Q. And don't you know that Mr. Hunings has one of the largest interests in that county, and that Mr. Tee is one of the largest cattle-owners in that county today?

A. Yes, sir.

Q. And you know that they were members of that board of supervisors prior to and subsequent to that time?

A. I don't know only that I can see by the record of 1885 that they were members; but in 1884 and 1883 I don't know.

Q. But you know that they have both lived in that county for a long time?

A. Yes, sir.

That is all.

Witness excused.

298 Mr. A. F. POTTER, a witness called on behalf of the defendant, was duly sworn and examined and testified as follows, to wit:

Examination by General WILSON:

Q. You are the county treasurer, are you, of Apache county?

A. Yes, sir.

Q. And are the custodian of the records of the county warrants and the register of the warrants?

A. Yes, sir.

Q. Are you familiar with the list of warrants sued on in this action?

A. Yes, sir.

Q. Can you turn to the register of warrants there and show whether any of these warrants have been registered for payment?

A. There is no original entry.

Q. That is what I mean.

A. No, sir; there is none.

Q. Does the record anywhere in the treasurer's office show any registration of these warrants?

A. It shows the copy of them. It shows the entry of all the warrants that were entered to be funded by the 7 % bonds. It shows a record of all the warrants that were presented to be funded at the time they were presented in 1888, but it does not show any original entry made in 1884.

Q. Then there was no original listing of those warrants until they were brought in, in 1888, to be funded?

Plaintiff objects to that.

A. The record doesn't show any.

By General WILSON: Turn to the record and show what
299 the board did when they were presented to be funded.

A. This is the record and copy that was made of the warrants which were presented to be redeemed by the 7 % bonds which were issued in 1888.

Q. The bonds that were issued in 1888?

A. Yes, sir. They were written down promiscuously by the treasurer as they were handed to him. The board advertised for these warrants to be sent in to be funded by the funding bonds.

Q. These particular warrants?

A. All the outstanding warrants. They were sent to the treasurer and he made a copy of them in this book, the original register having been destroyed, and then the board took action on them. All the warrants that were paid by the 7 % bonds, the date is carried out, and those on which payment was refused is simply left blank.

Q. Now, upon what grounds were they refused payment?

Plaintiff objects to that question.

A. (Witness continuing.) Some of them are marked "forgery."

Q. Was there any notice given to the treasurer previous to that time not to pay them?

A. Yes, sir.

Plaintiff objects to that.

By General WILSON:

Q. Have you any record of that notice?

A. Yes, sir; there is a standing notice in my office not to pay them.

Plaintiff objects to that, as it is a record not required by law
300 to be kept, and it is no proof of the forgery of the warrants at all.

By General WILSON:

Q. Have you gone through the record of the board of supervisors and examined it carefully, with reference to these warrants that were sued on?

A. Yes; I looked through the minutes in reference to it which the last witness has just read here.

Q. Does the record show any authority for the order of the issuance of those warrants?

By Mr. JOHNSTON: We object to that. The record is the best evidence.

By General WILSON:

Q. Do you know whether or not any warrants brought against the county of Apache was ever disputed or declared a forgery excepting those of 1884?

Plaintiff objects to that question in that it doesnt show who disputed it.

A. I can state that I have no knowledge of any warrants excepting those issued in 1884, which they have disputed. The register shows that the 1883 warrants and the 1885 warrants, too, have been paid.

Q. The 1883 and the 1885 warrants were paid and the 1884 warrants were dis uted?

A. Yes, sir; some of them, but not all.

Q. Can you state from the record those disputed warrants which are sued on here?

A. Yes, sir; all of those warrants sued on are shown to be disputed by the register.

Plaintiff moves to strike out the testimony as incompetent
301 and irrelevant and not tending to prove the issues joined in this action.

By the COURT: It will be taken subject to the objection.

By General WILSON: That is all.

Cross-examination.

By Mr. SANFORD:

Q. When did the treasurer of Apache count first commence to make the entry in the book kept by that public officer of the warrants presented to him for payment and not paid for want of funds?

A. January 6th, 1885.

Q. And no record of such presentation was made in that county prior to that time?

A. I have no record of any.

Q. You have all of the books that have been turned over to you as treasurer of that county?

A. Yes, sir.

Q. And the book which you have been reading from is a book in

which the treasurer made memorandums at the time the warrants were presented to him for funding?

A. Yes, sir.

Q. You didn't make those entries yourself?

A. No, sir.

Q. You were not present at the time they were made?

A. No, sir.

Q. How long have you been the treasurer of that county?

A. Since January 1st, 1896.

Q. And prior to that time you held no office in that county?

302 A. No, sir.

Q. Then you don't know of your own personal knowledge who placed the word "forgery" in that book opposite any entry?

A. Yes, sir; I do.

Q. You say you do know it of your own personal knowledge?

A. The gentleman who put it there told me that he had put it there.

Q. Then you know it by what somebody else told you?

A. Yes, sir; I did not see it done.

Q. Relating to the warrants of 1884, only a portion of the warrants for that year were disputed. Is that right—only a portion of them?

A. Yes, sir.

By General WILSON: All those that were not disputed were paid, were they not?

A. Yes; they were paid with the funding bonds. The register is here.

By Mr. SANFORD: Do you know when they had money in your county treasury applicable to or set aside for the payment of these warrants?

A. The first money which the register shows to have been in the treasury is indicated by this entry: All warrants presented prior to June 1st, 1884, are called in for payment this 19th day of April, 1888. That is the entry made by the treasurer each time.

Q. What is the date of that?

A. I don't know.

Q. It don't show the date?

A. It is supposed to be written on that day.

303 Q. When is that?

A. The 19th of April, 1888; and then there is another call of warrants presented prior to January.

Q. I am simply asking about the former question. There was none before that?

A. No, sir; not prior to the 19th of April, 1888.

That is all.

Redirect examination:

By General WILSON: What is the other order there? You started to read another order.

Plaintiffs object to that as incompetent evidence.

A. All warrants presented prior to January 1st, 1885, are called for payment on May 10th, 1888.

Plaintiff moves to strike out that answer of witness relating to the reading of this entry by the county treasurer, for the reason that it is irresponsive to the question.

By the COURT: It will be taken subject to the objection.

By General WILSON: Do you know of your own knowledge anything about these warrants?

A. I will say that I was a member of the grand jury that investigated the charges against those parties.

Plaintiff asks to strike that out. (No ruling by the court.)

Q. At what time was that?

A. In 1886.

Q. Is it not a fact that these 1884 Apache county warrants
304 were then the subject of that investigation?

A. Yes, sir.

By Mr. SANFORD: Is that competent, General?

By General WILSON: Well, that is all.

Witness excused.

By the COURT: Is there anything farther?

By General WILSON: I want to establish by those gentlemen that these warrants were declared forgeries away back in 1885, and that the holders of these warrants knew very well that the county of Apache had refused to pay them. This is for two reasons: First, to establish the forgery, and, second, to establish the fact that they knew of the invalidity of these warrants and therefore must have known that the statute of limitations was set up against them, and unless we can be permitted to do that I don't know that the full justice of the case is done, and I ask that these men be brought here by process of this court that their evidence can be taken. I think, in justice to the matter, it is necessary for us to do that. A mutilation of the record, these warrants coming right in the track of that mutilation, the effort on the part of the board of supervisors to restore the record, both counties trying to prosecute the perpetrator of the crime, if they are not before the court to prove this interest, then we want to bring these other people here to prove these facts.

305 By Mr. JOHNSTON: If Mr. Hunting or Mr. Tree was here he would say that he passed upon these warrants as a supervisor and reached the conclusion that they were forgeries, and that, except as to its competency, we are willing to admit; but to say that at the end of a trial that it shall be delayed to send for witnesses whose whereabouts are shown to be in a foreign county and who have not exhibited interest enough in the case to come here is a degree of indulgence which we do not think at this time ought to be entertained, and certainly not granted. There is nothing that

they could say but what the record shows. We admit they will say so and so, if here, but we object to its competency.

By General WILSON: The record shows that in 1885 and again in 1886 that certain warrants have been forged, raised, and circulated, etc., and so on, without making any number of them. It don't specify these particular warrants. Now, will you admit that these entries had reference to these particular warrants as well as others like them?

By Mr. JOHNSTON: I have no doubt that both of these gentlemen would express it as their opinion that some of these warrants were raised, but that would simply be an expression of an opinion in the absence of any personal knowledge, and, except and subject to its competency, there is no objection to admitting it; that they would say, in their judgment, some of these warrants were raised.

Q. Do you admit that they had that reference when they
306 made that record—that they had particular reference to these warrants?

By Mr. JOHNSTON: Yes; we will admit that they would express as their opinion, that I know positively, that they had not personal knowledge of the matter from each of them, and that they will each say it is their belief that these warrants have been raised, and if here they would so state.

By Mr. SANFORD: We will admit that if those witnesses were here they would identify these warrants as the ones intended to be described in these two orders——

By Mr. JOHNSTON (interrupting): That is, as expressive of their judgment, but not of their personal knowledge, for I know they have no personal knowledge upon the subject.

By General WILSON: Then I have nothing further. That is all we could prove by those two witnesses if they were here in court, that when these orders were made they had reference to those 1884 warrants, including these forty sued on.

The next thing that I want to present is that the filing was on October 19th, 1891.

The court remarking:

The court will take judicial knowledge of that fact.

Defendants rest.

By the COURT: Is there any rebuttal?

307 By Mr. SANFORD: Plaintiff desires to make a formal motion that all of that evidence on the part of the defendant be stricken out, for there is not sufficient facts to constitute a defense.

By the COURT: The court will take the motion, subject to further consideration.

Adjournment was then taken for one hour, when the cause was argued by counsel for plaintiff and by defendant, and counsel for plaintiff requested the reporter to take the following list of warrants (corresponding to cause of action):

No. 2		$79.50	No. 3.	130	$130.00
No. 4.	156	137.00	No. 5.	157	175.00
No. 6.	158	121.00	No. 23.	166	58.00
No. 27.	273	135.00	No. —.	272	180.00
No. 33.	32	121.00	No. 34.	321	198.00
No. 37.	266	140.00			

By Mr. JOHNSTON: On these particular warrants we do not ask judgment, simply because upon a careful, critical, microscopical examination these warrants would show that there has been an alteration of figures—not of the name of any party to it, not of the name of the chairman or of the clerk of the board of supervisors, not of the name of the payee—and there was originally a good warrant corresponding to each of those, but that it has been viciated by being raised, and on them we make no claim. Then a microscopical examination of the balance of these warrants, as well as the detailed history of each one of the claims for which it is presented, reveals the fact that the warrants are still in the original condition as issued, and that to tell me that you can give me your promissory note and after demanding it for the consideration of payment to then take it and write across it "Forgery," that
308 I am bound by it, it is too preposterous to consider for a moment, and we ask for judgment on the balance of these warrants, which we have heretofore named, for their face and 10 % interest from the date of their presentation to the treasurer and his refusal to pay "for want of funds."

I will present the brief which we have prepared for your consideration.

Case closed.

PLAINTIFF'S EXHIBITS.

Plaintiff's Exhibits 1 *to* 40, *Inc.*

Dist. Court, Maricopa Co., May 6th, 1896. C. H. Holmes, reporter.

PL'FF'S EX. 1.

No. 17. *Apache County Warrant.* $69.50.

Road fund.

ST. JOHNS, A. T., *July* 13*th*, 1884.

The treasurer of Apache county will pay to Julius Becker or order the sum of sixty-nine and 50/100 dollars for road-work.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk of Board of Supervisors.

(Endorsed:) Forgery. Merged in judgment M'ch 20, '97. J. E. Walker, clerk, by C. H. Knapp, deputy.

(Endorsed:) Not paid for want of funds. Presented this 12th of July, 1884. D. Baca, Co. treasurer; A. Ruiz, deputy. Julius Becker, Sol. Barth.

309 PLAINTIFF'S EXHIBIT No. 2. No. 159.

No. 159. *Apache County Warrant.* $77.50.

General fund.

ST. JOHNS, A. T., *Aug't 6th*, 1884.

The treasurer of Apache county will pay to the order of A. M. Boyer or order the sum of seventy-seven and 50/100 dollars for board of prisoners.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed:) Forgery.
(Endorsed:) Not paid for want of funds. Presented Aug't 6th, 1884. D. Baca, treasurer: A. Ruiz, deputy treasurer. Pay J. I. Lesueur, treasurer, or order for collection for National City bank, Grand Rapids, Mich. J. Frederick Barrs, cashier. Adv. A. M. Boyer, M. Barth.

PLAINTIFF'S EXHIBIT No. 3.

No. 160. *Apache County Warrant.* $130.00.

General fund.

ST. JOHNS, A. T., *Aug't 6th*, 1884.

The treasurer of Apache county will pay to M. Barth or order the sum of one hundred and thirty & 00/100 dollars for services as constable.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

Endorsed: Not paid for want of funds. Presented Aug. 6th, 1884. D. Baca, treasurer; A. Ruiz, dept. treas. M. Barth.
(Endorsed:) Forgery.

310 PLAINTIFF'S EXHIBIT No. 4.

No. 156. *Apache County Warrant.* $137.00.

General fund.

ST. JOHNS, A. T., *Aug. 6th*, 1884.

The treasurer of Apache county will pay to J. H. Wilson or order the sum of one hundred and thirty-seven & 00/100 dollars for services as constable.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors.

Endorsed: Not paid for want of funds. Presented Aug. 6th, 1884. D. Baca, treasurer; A. Ruiz, dept. treasurer. J. H. Wilson, Morris Barth.
(Endorsed:) Forgery.

PLAINTIFF'S EXHIBIT No. 5.

No. 157. *Apache County Warrant.* $175.00.

General fund.

ST. JOHNS, A. T., *Aug. 6th*, 1884.

The treasurer of Apache county will pay to T. J. Shuflin or order the sum of one hundred and seventy-five 00/100 dollars for services as dept. sheriff.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed:) Not paid for want of funds. Presented Aug 6th, 1884. D. Baca, treasurer; A. Ruiz, dept. treasurer. T. J. Shuflin, M. Barth.
(Endorsed:) Forgery.

PLAINTIFF'S EXHIBIT 6TH.

No. 158. *Apache County Warrant.* $121.00.

General fund.

ST. JOHNS, A. T., *August 6th*, 1884.

The treasurer of Apache county will pay to Houck & McDonald or order the sum of one hundred and twenty-one and 00/100
311 dollars for sheriff's expenses.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed:) Not paid for want of funds. Presented Aug. 6th, 1884. D. Baca, treasurer; A. Ruiz, dept. treasurer. Houck & McDonald, M. Barth.
(Endorsed:) Forgery.

PLAINTIFF'S EXHIBIT 7.

No. 19. *Apache County Warrant.* $284.00.

Road fund.

ST. JOHNS, A. T., *Aug. 6th*, 1884.

The treasurer of Apache county will pay to A. B. Lambson or order the sum of two hundred and eighty-four 00/100 dollars for road-work.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed:) Not paid for want of funds. Presented this 7th day of August, 1884. D. Baca, treasurer; A. Ruiz, deputy. M. Barth, A. L. Lambson. Adv.
(Endorsed:) Forgery.

PLAINTIFF'S EXHIBIT No. 8.

No. 214. *Apache County Warrant.* $58.00.

General fund.

ST. JOHNS, A. T., *Aug. 14th*, 1884.

The treasurer of Apache county will pay to John Nicholson or order the sum of fifty-eight and 00/100 dollars for grand jury fees.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors.

312 Not paid for want of funds. Presented Aug. 15th, 1884. D. Baca, treasurer; A. Ruiz, deputy. Sol. Barth, John Nicholson.
(Endorsed:) "Forgery."

PLAINTIFF'S EXHIBIT No. 9.

No. 233. *Apache County Warrant.* $96.00.

General fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to E. D. Johnson or order the sum of ninety-six 00/100 dollars for carpenter-work, etc., etc.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed:) Not paid for want of funds. Presented Oct. 9th, 1884. D. Baca, treasurer; A. Ruiz, dept. E. D. Johnson, Sol. Barth.
(Endorsed:) Forgery.

PLAINTIFF'S EXHIBIT No. 10.

No. 254. *Apache County Warrant.* $900.00.

General fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to Thos. Perez or order the sum of nine hundred and 00/100 dollars for sheriff.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed:) Not paid for want of funds. Presented November 7th, 1884. D. Baca, treasurer; A. Ruiz, deputy. Thos. Perez, Sol. Barth.
(Endorsed:) Forgery.

313 PLAINTIFF'S EXHIBIT No. 11.

No. 239. *Apache County Warrant.* $66.00.

General fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to M. P. Romney or order the sum of sixty-six and 00/100 dollars for printing.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed:) No sepaga pr folto de fendez. Octubre 8 de 1884. Deonicio Baca, trunera, pr Realio Coloma. M. P. Romney, Sol. Barth.
(Endorsed:) Forgery.

PLAINTIFF'S EXHIBIT 12.

No. 222. *Apache County Warrant.* $392.00.

General fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to Sol. Barth or order the sum of three hundred and ninety-two and 00/100 dollars for mdse. for poor, etc.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed:) Not paid for want of funds. Presented November 6th, 1884. D. Baca, treasurer; A. Ruiz, deputy. Sol. Barth.
(Endorsed:) Forgery.

PLAINTIFF'S EXHIBIT 13.

No. 232. *Apache County Warrant.* $330.00.

General fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to Sol. Barth or
314 order the sum of three hundred and thirty 00/100 dollars for mdse. for county, etc.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed:) Not paid for want of funds. Presented November 7th, 1884. D. Baca, treasurer; A. Ruiz, deputy. Sol. Barth.
(Endorsed:) Forgery.

PLAINTIFF'S EXHIBIT No. 14.

No. 236. *Apache County Warrant.* $13.25.

General fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to John T. Hogne or order the sum of thirteen and 25/100 dollars for R. officers.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed:) Not paid for want of funds. Presented Oct. 8th, 1884. D. Baca, treasurer; A. Ruiz, dept. John T. Hogne, Sol. Barth.
(Endorsed:) Forgery.

PLAINTIFF'S EXHIBIT No. 15.

No. 245. *Apache County Warrant.* $187.00.

General fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to Chas. Kinnear or order the sum of one hundred and eighty-seven dollars 00/100 for books, etc.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors.

315 (Endorsed:) Not paid for want of funds. Presented Oct. 9th, 1884. D. Baca, treasurer; Alfred Ruiz, dept. Chas. Kinnears, M. Barth.
(Endorsed:) Forgery.

PLAINTIFF'S EXHIBIT No. 16.

No. 238. *Apache County Warrant.* $98.00.

General fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to A. Gonzales or order the sum of ninety-eight and 00/100 dollars for lumber.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed:) Not paid for want of funds. Presented Oct. 9th, 1884. D. Baca, treasurer; A. Ruiz, deputy. Antonio Gonzales, M. Barth.
(Endorsed:) Forgery.

PLAINTIFF'S EXHIBIT No. 17.

No. 29. *Apache County Warrant.* $30.00.

Road fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to A. D. McIntosh or order the sum of thirty 00/100 dollars for road-work.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed:) Not paid for want of funds. Oct. 8th, 1884. D. Baca, treasurer; A. Ruiz, deputy. A. D. McIntosh, M. Barth.
(Endorsed:) Forgery.

316 PLAINTIFF'S EXHIBIT No. 18.

No. 31. *Apache County Warrant.* $400.00.

Road fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to William Lewis or order the sum of four hundred dollars for road-work.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed:) Not paid for want of funds. Oct. 8th, 1884. D. Baca, treasurer; Alfred Ruiz, deputy. William Lewis, M. Barth.
(Endorsed:) Forgery.

PLAINTIFF'S EXHIBIT No. 19.

No. 258. *Apache County Warrant.* $174.00.

General fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to Wm. M. Rudd or order the sum of one hundred and seventy-four 00/100 dollars for dist. att'y.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed:) Not paid for want of funds. Presented Oct. 8th, 1884. D. Baca, treasurer; Alfred Ruiz, deputy. Wm. M. Rudd, M. Barth. Adv.
(Endorsed:) Forgery.

PLAINTIFF'S EXHIBIT No. 20.

No. 261. *Apache County Warrant.* $25.00.

General fund.

ST. JOHNS, A. T., *Oct. 9th*, 1884.

317 The treasurer of Apache county will pay to J. T. Hogne or order the sum of twenty-five dollars 00/100 for registering.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed:) No sepaga pr falto de fendes. Otubre 9, 1884. Deonicio Baca, ferorero, pr Rudio Coloma, D. P. J. T. Hogne, M. Barth.
(Endorsed:) Forgery.

PLAINTIFF'S EXHIBIT No. 21.

No. 328. *Apache County Warrant.* $500.00.

General fund.

ST. JOHNS, A. T., *Dec. 31st*, 1884.

The treasurer of Apache county will pay to Thos. Perez or order the sum of five hundred 00/100 dollars for sheriff.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed:) Not paid for want of funds. Dec. 31st, 1884. D. Baca, treasurer; Alfred Ruiz, deputy. Thos. Perez, Sol. Barth.
(Endorsed:) Forgery.

PLAINTIFF'S EXHIBIT No. 22.

No. 264. *Apache County Warrant.* $450.00.

General fund.

ST. JOHNS, A. T., *Oct. 9th*, 1884.

The treasurer of Apache county will pay to W. M. Rudd or order the sum of four hundred and fifty 00/100 dollars for dist. att'y.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed:) Not paid for want of funds. Dec. 31st, 1884. D. Baca, treasurer; Alfred Ruiz, dept. treasurer. W. M. Rudd,
318 Sol. Barth. This warrant is not endorsed by me and I have not authorized any person to endorse my name upon it. Wm. M. Rudd. Adv.
(Endorsed:) Forgery.

PLAINTIFF'S EXHIBIT No. 23.

No. 166. *Apache County Warrant.* $58.00.

General fund.

ST. JOHNS, A. T., *Aug. 12th*, 1884.

The treasurer of Apache county will pay to W. W. Berry or order the sum of fifty-eight 00/100 dollars for grand-jury fees.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors.

Endorsed: Not paid for want of funds. Presented August 15th, 1884. D. Baca, treasurer; A. Ruiz, deputy. W. W. Berry, Sol. Barth.
(Endorsed:) Forgery.

PLAINTIFF'S EXHIBIT No. 24.

No. 311. *Apache County Warrant.* $91.50.

General fund.

ST. JOHNS, A. T., *Dec. 31st*, 1884.

The treasurer of Apache county will pay to Sol. Barth or order the sum of ninety-one and 50/100 dollars for mdse.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed:) Not paid for want of funds. Presented Dec. 31st, 1884. D. Baca, treasurer; A. Ruiz, deputy. Sol. Barth.
(Endorsed:) Forgery.

PLAINTIFF'S EXHIBIT No. 25.

No. 325. *Apache County Warrant.* $800.00.

General fund.

ST. JOHNS, A. T., *Dec.* 31*st*, 1884.

319 The treasurer of Apache county will pay to Thos. Perez the sum of eight hundred 00/100 dollars for services as sheriff.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed:) Not paid for want of funds. Dec. 31, 1884. D. Baca, treasurer; Alfred Ruiz, dept. treas. Thomas Perez, Sol. Barth.
(Endorsed:) Forgery.

PLAINTIFF'S EXHIBIT No. 26.

No. 324. *Apache County Warrant.* $20.00.

General fund.

ST. JOHNS, A. T., *Dec.* 31*st*, 1884.

The treasurer of Apache county will pay to N. Barth or order the sum of twenty 00/100 dollars for election expenses.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed:) Not paid for want of funds. Presented Dec. 31st, 1884. D. Baca, treasurer; A. Ruiz, deputy. Nat. Barth, Sol. Barth.
(Endorsed:) Forgery.

PLAINTIFF'S EXHIBIT No. 27.

No. 273. *Apache County Warrant.* $135.00.

General fund.

ST. JOHNS, A. T., *Dec.* 31*st*, 1884.

The treasurer of Apache county will pay to Sol. Barth or order the sum of one hundred and thirty-five 00/100 dollars for mdse. for the Co. poor.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board — Supervisors.

320 (Endorsed:) Not paid for want of funds. Presented Dec. 31, 1884. D. Baca, treasurer; A. Ruiz, deputy. Sol. Barth. (Endorsed:) Forgery.

PLAINTIFF'S EXHIBIT No. 28.

No. 280. *Apache County Warrant.* $129.00.

General fund.

ST. JOHNS, A. T., *Dec. 31st*, 1884.

The treasurer of Apache county will pay to Art. McDonald or order the sum of one hundred and twenty-nine 50/100 dollars for justice of the peace.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed:) Not paid for want of funds. Presented Dec. 31st, 1884. D. Baca, treasurer; A. Ruiz, deputy. Art. McDonald. (Endorsed:) Forgery.

PLAINTIFF'S EXHIBIT No. 29.

No. 263. *Apache County Warrant.* $500.00.

General fund.

ST. JOHNS, A. T., *Oct. 9th*, 1884.

The treasurer of Apache county will pay to Thos. Perez or order the sum of five hundred 00/100 dollars for services as sheriff.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed:) Not paid for want of funds. Dec. 31st, 1884. D. Baca, treasurer; Alfred Ruiz, dept. treas. Thos. Perez. (Endorsed:) Forgery.

321 PLAINTIFF'S EXHIBIT 30.

No. 326. *Apache County Warrant.* $325.00.

General fund.

ST. JOHNS, A. T., *Dec. 31st*, 1884.

The treasurer of Apache county will pay to E. C. Bunch or order the sum of three hundred and twenty-five 00/100 dollars for services as probate judge.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed:) Not paid for want of funds. Dec. 31st, 1884. D. Baca, treasurer; Alfred Ruiz, dept. treas. E. C. Bunch, Sol. Barth.
(Endorsed:) Forgery.

PLAINTIFF'S EXHIBIT No. 31.

No. 272. *Apache County Warrant.* $180.00.

General fund.

ST. JOHNS, A. T., *Dec. 31st*, 1884.

The treasurer of Apache county will pay to Sol. Barth or order the sum of one hundred and eighty 00/100 dollars for mdse. for the Co. poor.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed:) Not paid for want of funds. Presented Dec. 31st, 1884. D. Baca, treasurer; A. Ruiz, deputy. Sol. Barth.
(Endorsed:) Forgery.

PLAINTIFF'S EXHIBIT No. 32.

No. 300. *Apache County Warrant.* $45.00.

General fund.

ST. JOHNS, A. T., *Dec. 31st*, 1884.

The treasurer of Apache county will pay to A. Abeita or
322 order the sum of forty-five 00/100 dollars for services as constable.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed:) Not paid for want of funds. Presented Dec. 31st, 1884. D. Baca, treasurer; A. Ruiz, deputy. A. Abeita.
(Endorsed:) Forgery.

PLAINTIFF'S EXHIBIT No. 33.

No. 32. *Apache County Warrant.* $121.00.

Road fund.

ST. JOHNS, A. T., *Dec.* 31*st*, 1884.

The treasurer of Apache county will pay to A. D. McIntosh or order the sum of one hundred and twenty-one and 00/100 dollars for road-work.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed:) Not paid for want of funds. Presented Dec. 31st, 1884. D. Baca, treasurer; A. Ruiz, deputy. A. D. McIntosh.
(Endorsed:) Forgery.

PLAINTIFF'S EXHIBIT No. 34.

No. 321. *Apache County Warrant.* $198.00.

General fund.

ST. JOHNS, A. T., *Dec.* 31*st*, 1884.

The treasurer of Apache county will pay to B. Lopez or order the sum of one hundred and ninety-eight 00/100 dollars for board of the poor.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors.

323 (Endorsed:) Not paid for want of funds. Presented Dec. 31st, 1884; Jan. 2nd, 1885. Dionero Baca, tesorero. Benigno Lopez.
(Endorsed:) Forgery.

PLAINTIFF'S EXHIBIT No. 35.

No. 266. *Apache County Warrant.* $140.00.

General fund.

ST. JOHNS, A. T., *Dec.* 31*st*, 1884.

The treasurer of Apache county will pay to Roman Lopez or order the sum of one hundred and forty and 00/100 dollars for services as supervisor.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed:) Not paid for want of funds. Dec. 31st, 1884. Dionisio Baca, tesorero. Roman Lopez. Not paid.
(Endorsed:) Forgery.

PLAINTIFF'S EXHIBIT No. 36.

No. 302. *Apache County Warrant.* $65.00.

General fund.

ST. JOHNS, A. T., *Dec. 31st*, 1884.

The treasurer of Apache county will pay to Albert Miller or order the sum of sixty-five and 00/100 dollars for services as constable.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed:) Not paid for want of funds. Presented Dec. 31st, 1884. D. Baca, treasurer; A. Ruiz, deputy. Albert Miller.
(Endorsed:) Forgery.

324 PLAINTIFF'S EXHIBIT No. 37.

No. 276. *Apache County Warrant.* $175.00.

General fund.

ST. JOHNS, A. T., *Dec. 31st*, 1884.

The treasurer of Apache county will pay to W. W. Wall or order the sum of one hundred and seventy-five 00/100 dollars for damages to team.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed:) Not paid for want of funds. Presented Dec. 31st, 1884. D. Baca, treasurer; A. Ruiz, deputy. W. W. Wall.
(Endorsed:) Forgery.

PLAINTIFF'S EXHIBIT No. 38.

No. 319. *Apache County Warrant.* $27.50.

General fund.

ST. JOHNS, A. T., *Dec. 31st*, 1884.

The treasurer of Apache county will pay to B. Lopez or order the sum of twenty-seven 50/100 dollars for election expenses.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed:) Not paid for want of funds. Presented Dec. 31, 1884. Dionero Baca, tesorero. Sol. Barth, Benigno Lopez.
(Endorsed:) Forgery.

PLAINTIFF'S EXHIBIT No. 39.

No. 320. *Apache County Warrant.* $27.50.

General fund.

ST. JOHNS, A. T., *Dec.* 31*st*, 1884.

The treasurer of Apache county will pay to L. Chaves or
325 order the sum of twenty-seven 50/100 dollars for election expenses.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed:) Not paid for want of funds. Presented Dec. 31st, 1884. D. Baca, treasurer; A. Ruiz, deputy. Luiz Chaves, Sol. Barth.
(Endorsed:) Forgery.

PLAINTIFF'S EXHIBIT No. 40.

No. 323. *Apache County Warrant.* $20.00.

General fund.

ST. JOHNS, A. T., *Dec.* 31*st*, 1884.

The treasurer of Apache county will pay to M. Barth or order the sum of twenty and 00/100 dollars for election expenses.

LUTHER MARTIN,
Chairman Board of Supervisors.
CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed:) Not paid for want of funds. Presented Dec. 31, 1884. D. Baca, treasurer; A. Ruiz, deputy. M. Barth; N. Barth, administrator.
(Endorsed:) Forgery.

In the District Court of the Third Judicial District of the Territory of Arizona in and for the County of Maricopa.

JULIA BARTH, Executrix of Jacob Barth, Plaintiff,
vs.
APACHE COUNTY, Defendant.

326 I, Charles H. Holmes, court reporter of the third judicial district of the Territory of Arizona, do hereby certify that I was in attendance at the trial of the above-entitled cause, tried in

the district court of Maricopa county, Arizona Territory, on the 6th day of May, A. D. 1896; that I was the duly appointed court reporter of said court on said day and am now; that as such court reporter, by agreement of the parties and under direction of the court at the time of the trial, — reported phonographically the proceedings and all of the oral evidence and filed the documentary evidence offered upon the trial of said cause as the evidence in the cause.

That I have transcribed all of the same, and I hereby certify that the foregoing fifty-four pages of typewritten matter contain a full, true, correct, and complete statement of the proceedings and all of the evidence offered and had in said cause, and that no other evidence was introduced therein.

In testimony whereof I, as such court reporter, hereby set my official hand on this the fifteenth day of April, A. D. 1897.

CHAS. H. HOLMES,
Court Reporter.

In the District Court of the Third Judicial District, Maricopa County.

JULIA BARTH, Plaintiff,
vs.
APACHE COUNTY, Defendant. } Invalid Warrants.

327 Tried May 6th, 1896, before Baker, J.

Plaintiff and defendant having rested the case, counsel for plaintiff requested the reporter to take the following list of warrants (corresponding to cause of action):

No. 2.	159	$77.50
No. 3.	160	130.00
No. 4.	156	137.00
No. 5.	157	175.00
No. 6.	158	121.00
No. 23.	166	58.00
No. 27.	273	135.00
No. 31.	272	180.00
No. 33.	32	121.00
No. 34.	321	198.00
No. 37.	266	140.00
		$1,472.50

By Mr. JOHNSTON: On these particular warrants we do not ask judgment, simply because *upon* a careful, critical, microscopical examination these warrants would show that there has been an alteration of figures—not of the name of any party to it, not of the name of the chairman or of the clerk of the board of supervisors, not of the name of the payee—and there was originally a good warrant corresponding to each of these, but it has been viciated by being raised, and on them we make no claim. Then *upon* a microscopical examination of the balance of these warrants, as well

as the detailed history of each one of the claims for which it is presented, reveals the fact that the warrants are still in the original condition as issued, and that to tell me that you can give me your promissory note, and, after demanding it for the consideration of payment, to then take it and write across it "forgery," that I am bound by it, it is too preposterous to consider for a moment; and we ask for judgment on the balance of these warrants which we have heretofore named, for their face and ten per cent. in-
328 terest from the date of their presentation to the treasurer and his refusal to pay for want of funds.

Case closed.

From stenographic report of proceedings of trial.

CHAS. H. HOLMES,
Court Reporter.

T. W. Johnston, attorney-at-law, offices over the post-office.

PRESCOTT, ARIZONA, *September 22nd*, 1897.

To the clerk of the district court, Phœnix, Arizona.

DEAR SIR: I herewith hand you copy of the warrants by you delivered to me in accordance with the order of the court made in the case of Mrs. Julia Barth *vs.* Apache County.

If you will kindly acknowledge, I will be greatly obliged.

Respectfully, T. W. JOHNSTON.
P.

Plaintiff's Exhibits 1 *to* 40, *In.*

District Court, Maricopa County, May 6th, 1896. C. H. Holmes.

PLAINTIFF'S EXHIBIT 1.

No. 17. *Apache County Warrant.* $69.50.

Road fund.

ST. JOHNS, A. T., *July* 13, 1884.

The treasurer of Apache county will pay to Julius Becker
329 or order the sum of sixty-nine 50/100 dollars for road-work.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed across face:) Forgery. Merged in judgment March 20th, 1897. J. E. Walker, clerk, by C. H. Knapp, deputy clerk.

(Endorsed across back:) Not paid for want of funds. Presented this 12th of July, 1884. D. Baca, Co. treas.; A. Ruiz, deputy. Sol. Barth, Julius Becker.

PLAINTIFF'S EX. 33.

PLAINTIFF'S EX. 2.

No. 159. *Apache County Warrant.* $77.50.

General fund.

ST. JOHNS, A. T., *Aug't 6th*, 1884.

The treasurer of Apache county will pay to A. M. Boyer or order the sum of seventy-seven 50/100 dollars for board of prisoners.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed across face:) Forgery.
(Endorsed across back:) Not paid for want of funds. Presented Aug. 6th, 1884. D. Baca, treasurer: A. Ruiz, dep. treasurer. A. M. Boyer, M. Barth. Pay J. I. Lesueur, treas., cashier, or order for collection for *collection for* National City bank, Grand Rapids, Mich. J. Frederic Baars, cashier. Adv.

330 PL'F'S EX. 29.

PL'F'S EX. 3.

No. 160. *Apache County Warrant.* $130.00.

General fund.

ST. JOHNS, A. T., *Aug't 6th*, 1884.

The treasurer of Apache county will pay to M. Barth or order the sum of one hundred and thirty 00/100 dollars for services as constable.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed across face:) Forgery.
(Endorsed across back:) Not paid for want of funds. Presented Aug. 6th, 1884. D. Baca, treasurer; A. Ruiz, dept. treasurer. M. Barth. [Pay J. I. Lesueur, treas., cashier, or]* order for collection for National City bank, Grand Rapids, Mich. [J. Frederic Baars, cashier.]*

[* Words enclosed in brackets erased in copy.]

Pl'f's Ex. 27.

Pl'f's Ex. 4.

No. 156. *Apache County Warrant.* $137.00.

General fund.

St. Johns, A. T., *Aug't 6th*, 1884.

The treasurer of Apache county will pay to J. H. Wilson or order the sum of one hundred and thirty-seven 00/100 dollars for services as constable.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed across face:) Forgery.

(Endorsed across back:) Not paid for want of funds. Pre-
331 sented Aug't 6th, 1884. D. Baca, treasurer; A. Ruiz, dept. treasurer. J. H. Wilson, Morris Barth. [Pay J. I. Lesueur, treas.,]* cashier, or order for collection for National City bank, Grand Rapids, Mich. [J. Frederic Baars, cashier.]*

Pl'f's Ex. 16.

Pl'f's Ex. 5.

No. 157. *Apache County Warrant.* $175.00.

General fund.

St. Johns, A. T., *Aug. 6th*, 1884.

The treasurer of Apache county will pay to T. J. Shuflin or order the sum of one hundred and seventy-five 00/100 dollars for services as dept. sheriff.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed across face:) Forgery.

(Endorsed across back:) Not paid for want of funds. Presented August 6th, 1884. D. Baca, treasurer; A. Ruiz, dept. treasurer. T. J. Shuflin, M. Barth. [Pay J. I. Lesueur, treas., cashier,]* or order for collection for National City bank, Grand Rapids, Mich. [J. Frederic Baars, cashier.]*

[* Words enclosed in brackets erased in copy.]

PL'F'S EX. 12.

PL'F'S EX. 6.

No. 158. *Apache County Warrant.* $121.00.

General fund.

ST. JOHNS, A. T., *Aug't 6th*, 1884.

The treasurer of Apache county will pay to Houck & McDonald or order the sum of one hundred and twenty-one 00/100
332 dollars for sheriff's expenses.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed across face:) Forgery.
(Endorsed across back:) Not paid for want of funds. Presented Aug. 6th, 1884. D. Baca, treasurer; A. Ruiz, dept. treasurer. Houck & McDonald, M. Barth. [Pay J. I. Lesuer, treas., cashier,]* or order for collection for National City bank, Grand Rapids, Mich. [J. Frederic Baars, cashier.] *

PL'F'S EX. 39.

PL'F'S EX. 7.

No. 19. *Apache County Warrant.* $284.00.

Road fund.

ST. JOHNS, A. T., *Aug. 6th*, 1884.

The treasurer of Apache county will pay to A. B. Lambson or order the sum of two hundred and eighty-four 00/100 dollars for road-work.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed across face:) Forgery.
(Endorsed across back:) Not paid for want of funds. Presented this 7th day of August, 1884. D. Baca, treasurer; A. Ruiz, deputy. A. B. Lambson, M. Barth. [Pay J. I. Lesuer, treas.,]* cashier, or order for collection for National City bank, Grand Rapids, Mich. [J. Frederic Baars, cashier.] *

[* Words enclosed in brackets erased in copy.]

333

PL'F'S EX. 30.

PL'F'S EX. 8.

No. 214. *Apache County Warrant.* $58.00.

General fund.

ST. JOHNS, A. T., *Aug. 14th*, 1884.

The treasurer of Apache county will pay to John Nicholson or order the sum of fifty-eight 00/100 dollars for grand-jury fees.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed across face:) Forgery.
(Endorsed across back:) Not paid for want of funds. Presented Aug. 15th, 1884. D. Baca, treasurer; A. Ruiz, deputy. John Nicholson, Sol. Barth. [Pay J. I. Lesueur, treas., cashier, or order for collection for National City bank, Grand Rapids, Mich. J. Frederic Baars, cashier.] *

PL'FF'S EX. 2.

PL'FF'S EX. 9.

No. 233. *Apache County Warrant.* $96.00.

General fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to E. D. Johnston or order the sum of ninety-six 00/100 dollars for carpenter-work, etc., etc.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed across face:) Forgery.
(Endorsed across back:) Not paid for want of funds. Presented Oct. 9th, '84. D. Baca, treasurer; Alfred Ruiz, dpt. E. D.
334 Johnson, Sol. Barth. [Pay J. I. Lesueur, treas., cashier,] * or order for collection for Nation- City bank, Grand Rapids, Mich. [J. Frederic Baars, cashier.] *

M. 96.
119.49
215.49

[* Words enclosed in brackets erased in copy.]

PL'FF'S EX. 22.

PL'FF'S EX. 10.

No. 254. *Apache County Warrant.* $900.00.

General fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to Thos. Perez or order the sum of nine hundred dollars 00/100 for sheriff.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed across face:) Forgery.
(Endorsed across back:) Not paid for want of funds. Presented November 7th, 1884. D. Baca, treasurer; A. Ruiz, dept. Thos. Perez, Sol. Barth. [Pay J. Lesueur, treas., or order. F. Baars, cashier.] *

PL'FF'S EX. 20.

PL'FF'S EX. 11, ELEVEN.

No. 239. *Apache County Warrant.* $66.00.

General fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to M. P. Romney or order the sum of sixty-six dollars 00/100 for printing.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed across face:) Forgery.
(Endorsed across back:) No sepaga pr folto de fendez. Otterte 8 de 1884. Deionicio Baca, tesorero, ap. Rezalio Coloma. M. P.
335 Romney, Sol. Barth. Pay J. [I.] * Lesueur, treas. [cashier],* or order for collection for National City bank, Grand Rapids, Mich. [Frederic Baars, cashier.] *

[* Words enclosed in brackets erased in copy.]

Pl'ff's Ex. 35.

Pl'ff's Ex. 12.

No. 222. *Apache County Warrant.* $392.00.

General fund.

St. Johns, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to Sol. Barth or order the sum of three hundred and ninety-two 00/100 dollars for mdse. for poor of Co.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed across face:) Forgery.
(Endorsed across back:) Not paid for want of funds. Presented November 7th, 1884. D. Baca, treasurer; A. Ruiz, deputy. Sol. Barth. [Pay J. I. Lesueur, treas., or order. F. Baars, cashier.]*

Pl'ff's Ex. 36.

Pl'ff's Ex. 13.

No. 232. *Apache County Warrant.* $330.00.

General fund.

St. Johns, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to Sol. Barth or order the sum of three hundred and thirty 00/100 dollars for mdse. for county, etc.

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LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed across face:) Forgery.
(Endorsed across back:) Not paid for want of funds. Presented November 7th, 1884. A. Ruiz, deputy; D. Baca, treasurer. Sol. Barth. [Pay J. I. Lesueur, treas., or order. F. Baars, cashier.]*

[*Words enclosed in brackets erased in copy.]

PL'FF'S EX. 26.

PL'FF'S EX. 14.

No. 236. *Apache County Warrant.* $13.25.

General fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to John T. Hogne or order the sum of thirteen and 25/100 dollars for R. officers.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed across face:) Forgery.
(Endorsed across back:) Not paid for want of funds. Presented Oct. 8th, 1884. D. Baca, treasurer; A. Ruiz, deputy. John T. Hogne, Sol. Barth. [Pay J. I. Lesueur, treas., cashier,]* or order for collection for National City bank, Grand Rapids, Mich. [J. Frederic Baars, cashier.]*

PL'FF'S EX. 21.

PL'FF'S EX. 15.

No. 245. *Apache County Warrant.* $187.00.

General fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to Chas. Kinnear
337 or order the sum of one hundred and eighty-seven 00/100 dollars for books, etc., etc.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed across face:) Forgery.
(Endorsed across back:) Not paid for want of funds. Oct. 8th, 1884. D. Baca, treasurer; Alfred Ruiz, dept. Chas. Kinnear, M. Barth. [Pay J. I. Lesueur, treas., cashier,]* or order for collection for National City bank, Grand Rapids, Mich. [J. Frederic Baars, cashier.]*

[* Words enclosed in brackets erased in copy.]

PL'FF'S EX. 25.

PL'FF'S EX. 16.

No. 238. *Apache County Warrant.* $98.00.

General fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to A. Gonzales or order the sum of ninety-eight and 00/100 dollars for lumber.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed across face:) Forgery.
(Endorsed across back:) Not paid for want of funds. Presented Oct. 9th, 1884. D. Baca, treasurer; A. Ruiz, deputy. Antonio Gonzales, M. Barth. [Pay J. I. Lesueur, treas., cashier, or]* order for collection for National City bank, Grand Rapids, Mich. [J. Frederic Baars, cashier.]*

338 PL'FF'S EX. 37.

PL'FF'S EX. 17.

No. 29. *Apache County Warrant.* $30.00.

General fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to A. D. McIntosh or order the sum of thirty and 00/100 dollars for road-work.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed across face:) Forgery.
(Endorsed across back:) Not paid for want of funds. Oct. 8th, 1884. D. Baca, treasurer; Alfred. Ruiz, dept. A. D. McIntosh, M. Barth. [Pay J. I. Lesueur, treas., cashier, or]* order for collection for National City bank, Grand Rapids, Mich. [J. Frederic Baars, cashier.]*

[* Words enclosed in brackets erased in copy.]

PL'FF'S EX. 40.

PL'FF'S EX. 18.

No. 31. *Apache County Warrant.* $400.00.

Road fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to William Lewis or order the sum of four hundred 00/100 dollars for road-work.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed across face:) Forgery.
(Endorsed across back:) Not paid for want of funds. Oct. 8, '84. D. Baca, treasurer; Alfred Ruiz, deputy. William Lewis, M. Barth. [Pay J. I. Lesueur, treas., cashier,]* or order for collection
339 for National City bank, Grand Rapids, Mich. [J. Frederic Baars, cashier.]*
400
498

898

PL'FF'S EX. 4.

PL'FF'S EX. 19.

No. 258. *Apache County Warrant.* $174.00.

Road fund.

ST. JOHNS, A. T., *Oct. 8th*, 1884.

The treasurer of Apache county will pay to Wm. M. Rudd or order the sum of one hundred and seventy-four 00/100 dollars for dist. att'y.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed across face:) Forgery.
(Endorsed across back:) Not paid for want of funds. Presented Oct. 9th, 1884. D. Baca, treasurer; Alfred Ruiz, dpt. Wm. M. Rudd, M. Barth. [Pay J. I. Lesueur, treas., cashier,]* or order for collection for National City bank, Grand Rapids, Mich. Adv. (Stet:) [J. Frederic Baars, cashier. The endorsement upon this warrant has not been made by me, and I have not authorized any person to make it for me. Wm. M. Rudd.]*

[* Words enclosed in brackets erased in copy.]

PL'FF'S EX. 34.

PL'FF'S EX. 20.

No. 261. *Apache County Warrant.* $25.00.

General fund.

ST. JOHNS, A. T., *Oct. 9th*, 1884.

The treasurer of Apache county will pay to J. T. Hogne or order the sum of twenty-five 00/100 dollars for registering.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

340 (Endorsed across face:) Forgery.
(Endorsed across back:) No sepaga pr falto de funds. Otubre 9, 1884. Deonicio Baca, oeaorero, pr Rezalio Coloma, D. P. J. T. Hogne, M. Barth. [Pay J. I. Lesueur, treas., cashier,] * or order for collection for National City bank, Grand Rapids, Mich. [J. Frederic Baars, cashier.] *

25.
29.12

54.12

PL'FF'S EX. 24.

PL'FF'S EX. 21.

No. 328. *Apache County Warrant.* $500.00.

General fund.

ST. JOHNS, A. T., *Dec. 31st*, 1884.

The treasurer of Apache county will pay to Thos. Perez or order the sum of five hundred 00/100 dollars for sheriff.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed across face:) Forgery.
(Endorsed across back:) Not paid for want of funds. Dec. 31, 84. D. Baca, treasurer; Alfred Ruiz, dp. treasurer. Thomas Perez, Sol. Barth. [Pay J. I. Lesueur, treas., cashier,] * or order for collection for National City bank, Grand Rapids, Mich. [J. Frederic Baars, cashier.] *

[* Words enclosed in brackets erased in copy.]

PL'FF'S EX. 3.

PL'FF'S EXHIBIT 22.

No. 264. *Apache County Warrant.* $450.00.

341 General fund.

ST. JOHNS, A. T., *Oct. 9th*, 1884.

The treasurer of Apache county will pay to Wm. M. Rudd or order the sum of four hundred and fifty 00/100 dollars for dist. att'y.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed across face:) Forgery.
(Endorsed across back:) Not paid for want of funds. Dec. 31, '84. D. Baca, treasurer; Alfred Ruiz, dpt. treasurer. W. M. Rudd, Sol. Barth. [Pay J. I. Lesueur, treas., cashier,]* or order for collection for National City bank, Grand Rapids, Mich. [J. Frederic Baars, cashier.]* This warrant is not endorsed by me and I have not authorized any person to endorse my name upon it. Wm. M. Rudd.

450.00
549.87

999.87.

PL'FF'S EX. 31.

PL'FF'S EX. 23.

No. 166. *Apache County Warrant.* $58.00.

General fund.

ST. JOHNS, A. T., *Aug. 12th*, 1884.

The treasurer of Apache county will pay to W. W. Berry or order the sum of fifty-eight 00/100 dollars for grand-jury fees.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed across face:) Forgery.
(Endorsed across back:) Not paid for want of funds. Presented Aug. 15th, 1884. D. Baca, treasurer; A. Ruiz, deputy.
342 [Pay J. I. Lesueur, treas., cashier,]* or order for collection for National City bank, Grand Rapids, Mich. [J. Frederic Baars, cashier.]* Sol. Barth, W. W. Berry.

[* Words enclosed in brackets erased in copy.]

PL'FF'S EX. 9.

PL'FF'S EX. 24.

No. 311. *Apache County Warrant.* $91.50.

General fund.

ST. JOHNS, A. T., *Dec.* 31, 1884.

The treasurer of Apache county will pay to Sol. Barth or order the sum of ninety-one and 50/100 dollars for mdse.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed on face:) Forgery.
(Endorsed across back:) Not paid for want of funds. Presenter Dec. 31, 1884. D. Baca, treasurer; A. Ruiz, deputy. Sol. Barth. [Pay J. I. Lesueur, treas., cashier,]* or order for collection for National City bank, Grand Rapids, Mich. [J. Frederic Baars, cashier.]*

PL'FF'S EX. 6.

PL'FF'S EX 25.

No. 325. *Apache County Warrant.* $800.00.

General fund.

ST. JOHNS, A. T., *Dec.* 31*st*, 1884.

The treasurer of Apache county will pay to Thos. Perez or order the sum of eight hundred 00/100 dollars for services as sheriff.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed across face:) Forgery.
343 (Endorsed across back:) Not paid for want of funds. Dec. 31, '84. D. Baca, treasurer; Alfred Ruiz, dept. treasurer. Thomas Perez, Sol. Barth. [Pay J. I. Lesueur, treas., cashier,]* or order for collection for National City bank, Grand Rapids, Mich. [J. Frederic Baars, cashier.]*

[* Words enclosed in brackets erased in copy.]

PL'FF'S EX. 19.

PL'FF'S EX. 26.

No. 324. *Apache County Warrant.* $20.00.

General fund.

ST. JOHNS, A. T., *Dec. 31st*, 1884.

The treasurer of Apache county will pay to N. Barth or order the sum of twenty 00/100 dollars for election expenses.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed across face:) Forgery.
(Endorsed across back:) Not paid for want of funds. Presented Dec. 31, 1884. D. Baca, treasurer; A. Ruiz, deputy. Sol. Barth. [Pat J. I. Lesueur, treas., cashier,]* or order for collection for National City bank, Grand Rapids, Mich. [J. Frederic Baars, cashier.]*

20.
24.44

44.44

PL'FF'S EX. 10.

PL'FF'S EX. 27.

No. 273. *Apache County Warrant.* $135.00.

General fund.

ST. JOHNS, A. T., *Dec. 31st*, 1884.

344 The treasurer of Apache county will pay to Sol. Barth or order the sum of one hundred and thirty-five 00/100 dollars for mdse. for the Co. poor.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed across face:) Forgery.
(Endorsed across back:) Not paid for want of funds. Presented Dec. 31st, 1884. D. Baca, treasurer: A. Ruiz, deputy. Sol. Barth. [Pay J. I. Lesueur, treas., cashier,]* or order for collection for National City bank, Grand Rapids, Mich. [J. Frederic Baars, cashier.]*

[* Words enclosed in brackets erased in copy.]

PL'FF'S EX. 11.

PL'FF'S EX. 28.

No. 280. *Apache County Warrant.* $129.50.

General fund.

ST. JOHNS, A. T., *Dec. 31st*, 1884.

The treasurer of Apache county will pay to Art. McDonald or order the sum of one hundred and twenty-nine and 50/100 dollars for justice of the peace.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed across face:) Forgery.
(Endorsed across back:) Not paid for want of funds. Presented Dec. 31st, 1884. D. Baca, treasurer; A. Ruiz, deputy. Art. McDonald. [Pay J. I. Lesueur, treas., cashier]* or order for collection for National City bank, Grand Rapids, Mich. [J. Frederic Baars, cashier.]*
345
129.50
158.23

282.73

PL'FF'S EX. 28.

PL'FF'S EX. 29.

No. 263. *Apache County Warrant.* $500.00.

General fund.

ST. JOHNS, A. T., *Oct. 9th*, 1884.

The treasurer of Apache county will pay to Thos. Perez or order the sum of five hundred 00/100 dollars for services as sheriff.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed across face:) Forgery.
(Endorsed across back.) Not paid for want of funds. Dec. 31, 1884. D. Baca, treasurer; Alfred Ruiz, dept. treasurer. Thomas Perez. [Pay J. I. Lesueur, treas, or order. F. Baars.]*

500.00
610.97

1,110.97

[* Words enclosed in brackets erased in copy.]

PL'FF'S EX. 18.

PL'FF'S EX. 30.

No. 326. *Apache County Warrant.* $325.00.

General fund.

ST. JOHNS, A. T., *Dec.* 31, 1884.

The treasurer of Apache county will pay to E. C. Bunch or order the sum of three hundred and twenty-five 00/100 dollars for services as probate judge.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed across face:) Forgery.

346 (Endorsed across back:) Not paid for want of funds. Dec. 31, 1884. D. Baca, treasurer; Alfred Ruiz, dpt. treasurer. E. C. Bunch, Sol. Barth. [Pay J. I. Lesueur, treas., cashier,]* or order for collection for National City bank, Grand Rapids, Mich. J. Frederic Baars, cashier.

325.00
397.13

722 13

PL'FF'S EX. 13.

PL'FF'S EX. 31.

No. 272. *Apache County Warrant.* $180.00.

General fund.

ST. JOHNS, A. T., *Dec.* 31, 1884.

The treasurer of Apache county will pay to Sol. Barth or order the sum of one hundred and eighty 00/100 dollars for mdse. for the Co. poor.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed across face:) Forgery.

(Endorsed across back:) Not paid for want of funds. Presented Dec. 31, 1884. D. Baca, treasurer; A. Ruiz, deputy. Sol. Barth. [Pay J. I. Lesueur, treas., cashier,]* or order for collection for National City bank, Grand Rapids, Mich. [J. Frederic Baars, cashier.]*

[* Words enclosed in brackets erased in copy.]

PL'F'S EX. 7.

PL'F'S EX. 32.

No. 300. *Apache County Warrant.* $45.00.

347 General fund.

ST. JOHNS, A. T., *Dec.* 31*st*, 1884.

The treasurer of Apache county will pay to A. Abeita or order the sum of forty-five 00/100 dollars for services as constable.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed across face:) Forgery.
(Endorsed across back:) Not paid for want of funds. Presented Dec. 31, 1884. D. Baca, treasurer; A. Ruiz, deputy. A. Abeita. [Pay J. I. Lesueur, treas., cashier,]* or order for collection for National City bank, Grand Rapids, Mich. [J. Frederic Baars, cashier.]*

PL'FF'S EX. 41.

PL'FF'S EX. 33.

No. 32. *Apache County Warrant.* $121.00.

Road fund.

ST. JOHNS, A. T., *Dec.* 31, 1884.

The treasurer of Apache county will pay to A. D. McIntosh or order the sum of one hundred and twenty-one 00/100 dollars for road-work.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed across face:) Forgery.
(Endorsed across back:) Not paid for want of funds. Presented Dec. 31st, 1884. D. Baca, treasurer; A. Ruiz, deputy. A. D. McIntosh. [Pay J. I. Lesueur, treas., cashier,]* or order for collection for National City bank, Grand Rapids, Mich. [J. Frederic Baars, cashier.]*

[* Words enclosed in brackets erased in copy.]

348 PL'FF'S EX. 17.

PL'FF'S EX. 34.

No. 321. *Apache County Warrant.* $198.00.

General fund.

ST. JOHNS, A. T., *Dec. 31st*, 1884.

The treasurer of Apache county will pay to B. Lopez or order the sum of one hundred and ninety-eight 00/100 dollars for board of the poor.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed across face:) Forgery.
(Endorsed across back:) Not paid for want of funds. Presented Dec. 31st, 1884; Jan. 2nd, 1885. Deonicio Baca, tesorero. Benigno Lopez. [Pay J. I. Lesueur, treas., cashier,] * or order for collection for National City bank, Grand Rapids, Mich. [J. Frederic Baars, cashier.] *

PL'FF'S EX. 14.

PL'FF'S EX. 35.

No. 266. *Apache County Warrant.* $140.00.

General fund.

ST. JOHNS, A. T., *Dec. 31st*, 1884.

The treasurer of Apache county will pay to Roman Lopez or order the sum of one hundred and forty 00/100 dollars for services as supervisor.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed across face:) Forgery.
(Endorsed across back:) Not paid for want of funds. Dec. 31st, 1884. Deonicio Baca, tesorero. Roman Lopez. [Pay J. I.
349 Lesueur, treas., cashier,] * or order for collection for National City bank, Grand Rapids, Mich. J. [Frederic Baars, cashier.] * Not paid.

[* Words enclosed in brackets erased in copy.]

PL'FF'S EX. 8.

PL'FF'S EX. 36.

No. 302. *Apache County Warrant.* $65.00.

General fund.

ST. JOHNS, A. T., *Dec. 31st*, 1884.

The treasurer of Apache county will pay to Albert Miller or order the sum of sixty-five 00/100 dollars for services as constable.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed across face:) Forgery.
(Endorsed across back:) Not paid for want of funds. Presented Dec. 31st, 1884. D. Baca, treasurer; A. Ruiz, deputy. Albert Miller. [Pay J. I. Lesueur, treas., cashier, or order for collection for National City bank, Grand Rapids, Mich. J. Frederic Baars, cashier.] *

PL'FF'S EX. 1.

PL'FF'S EX. 37.

No. 276. *Apache County Warrant.* $175.00.

General fund.

ST. JOHNS, A. T., *Dec. 31st*, 1884.

The treasurer of Apache county will pay to W. W. Wall or order the sum of one hundred and seventy-five 00/100 dollars for damages to team.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

350 (Endorsed across face:) Forgery.
(Endorsed across back:) Not paid for want of funds. Presented Dec. 31st, 1884. D. Baca, treasurer; A. Ruiz, deputy. W. W. Wall. [Pay J. I. Lesueur, treas., cashier,] * or order for collection for National City bank, Grand Rapids, Mich. [J. Frederic Baars, cashier.] *

175.00
213.85

388.85

[* Words enclosed in brackets erased in copy.]

PL'FF'S EX. 32.

PL'FF'S EX. 38.

No. 319. *Apache County Warrant.* $27.50.

General fund.

ST. JOHNS, A. T., *Dec. 31st*, 1884.

The treasurer of Apache county will pay to B. Lopez or order the sum of twenty-seven 50/100 dollars for election expenses.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed across face:) Forgery.
(Endorsed across back:) Not paid for want of funds. Presented Dec. 31st, 1884. Deonicio Baca, tesorero. Sol. Barth, Benigno Lopez. [Pay J. I. Lesueur, treas., cashier,]* or order for collection for National City bank, Grand Rapids, Mich. [J. Frederic Baars, cashier.]*

27.50
33.60

61.10.

PL'F'S EX. 23.

351

PL'FF'S EX. 39.

No. 320. *Apache County Warrant.* $27.50.

General fund.

ST. JOHNS, A. T., *Dec. 31st*, 1884.

The treasurer of Apache county will pay to L. Chaves or order the sum of twenty-seven 50/100 dollars for election expenses.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed across face:) Forgery.
(Endorsed across back:) Not paid for want of funds. Presented Dec. 31st, 1884. D. Baca, treasurer; A. Ruiz, deputy. Mig. Chaves, Sol. Barth. [Pay J. I. Lesueur, treas., cashier,]* or order for collection for National City bank, Grand Rapids, Mich. [J. Frederic Baars, cashier.]*

27.50
33.60

61.10

[* Words enclosed in brackets erased in copy.]

Pl'ff's Ex. 15.

Pl'ff's Ex. 40.

No. 323. *Apache County Warrant.* $20.00.

General fund.

St. Johns, A. T., *Dec.* 31*st*, 1884.

The treasurer of Apache county will pay to M. Barth or order the sum of twenty 00/100 dollars for election expenses.

LUTHER MARTIN,
Chairman Board of Supervisors.

CHAS. KINNEAR,
Clerk Board of Supervisors.

(Endorsed across face:) Forgery.
(Endorsed across back:) Not paid for want of funds. Presented Dec. 31st, 1884. D. Baca, treasurer; A. Ruiz, deputy. M. Barth; N. Barth, administrator. [Pay J. I. Lesueuer, treas., cashier,]* or order for collection for National City bank, Grand Rapids, Mich.[J. Frederic Baars, cashier.]*

352

20.00
24.44.

44.44.

In the District Court of Maricopa County, Territory of Arizona.

Julia Barth, as the Executrix of Jacob Barth, Deceased, Plaintiff, *vs.* The County of Apache, Defendant.	Assignment of Errors. Filed in Dist. Court of Mar. Co. by Edwin S. Gill on Oct. 26, '97.

The defendant in the above-entitled cause, The County of Apache, comes and makes the following assignment of errors alleged to have been committed by the court at the trial of this cause, and they are as follows, to wit:

First.

Because the court erred in overruling defendant's special demurrer interposed in the action against plaintiff's complaint for the reasons:

1. Because each and every count in said complaint showed on its face, and so did the exhibit on which the declaration and each of the same and every one of them was based, that the said cause and each of said causes and each of the said warrants declared on was and were barred by the statute of limitation long before the bringing of said action.

[* Words enclosed in brackets erased in copy.]

353 2. Because the said complaint, in each and every cause therein stated, and the warrants and each of them declared on all showed on their face, and each of them did, that the same and all thereof was and were barred by the statute of limitation long before the bringing of the action, and that the said complaint failed in each and every of the said counts therein made and set up to show any reason why the statute bar should be avoided.

Second.

Because the court erred in not sustaining defendant's special plea of limitation set up against plaintiff's several causes of action in her complaint made, for the reasons:

1. Because the several causes of action and the several warrants on which they and each of them were based showed on their face that they were barred by the statute long before the bringing — this suit.

2. Because plaintiff set no excuse for the avoidance of the statute bar; and,

3. Because the proof and the record showed that defendant directed the resistance of the payment of the said warrants in the year 1885, and more than five years before the bringing of this action, and hence the absolute bar of the same by the statute of limitation.

Third.

Because the court erred in finding that each of the said warrants for which judgment was rendered was legally issued, for the reasons:

1. Because they and each of them showed on their face that they were not —, but were forgeries.

2. Because the defendant's answer was made and verified
354 by the oath of the board of supervisors of the said county of Apache, and stated under oath that the said warrants for which judgment was rendered and each of the same was and were forgeries; that they were not genuine and were not issued by the authority of the said county of Apache; and therefore and thereby imposed the burden on plaintiff of proving that said warrants and each of the same were genuine and were issued by the authority of said county before plaintiff was entitled to judgment thereon; all of which plaintiff failed to do, and on which and over the objections of defendant, and over the said verity of the said answer, and without proof the court rendered said judgment; hence grave error and violation of the statute.

Fourth.

Because the said judgment is contrary to the pleadings and evidence in the cause and is not borne out by the same.

Fifth.

Because the said judgment is contrary to the law of the case and is not borne out by the same.

Wherefore defendant prays the court that the said judgment be

reversed, and that the same be remanded back to the court below, with directions to said court to render judgment for defendant.

J. F. WILSON,
Attorney for Defendant.

355 In the District Court of the Third Judicial District of the Territory of Arizona in and for the County of Maricopa.

JULIA BARTH, Executrix of the Will of Jacob Barth, Deceased, Plaintiff,
vs.
APACHE COUNTY, Defendant. } No. 2619.

Lloyd Johnston, clerk of the supreme court of Arizona Territory.

SIR: An appeal has been taken by the defendant in the above-entitled action from the judgment and decision rendered therein in behalf of the plaintiff and against the defendant in this court on the 20th day of March, A. D. 1897, which said appeal has been duly perfected. I herewith certify and transmit to you the entire record in said cause, including original papers on file in this court and all minute orders in the case, the decision and judgment rendered therein in this court and entered of record therein, together with the copies of original warrants sued on and other testimony taken in the case as transcribed and certified to by the court reporter and filed as a part of the record in said cause.

Dated this 16th day of December, A. D. 1897.

EDWIN S. GILL,
Clerk of said District Court.

356 In the Supreme Court of the Territory of Arizona.

APACHE COUNTY, Appellant,
vs.
JULIA BARTH, Executrix of the Will of Jacob Barth, Deceased, Appellee. } No. 584. Minute Entry, Jan. 10th, 1898.

It is ordered that this cause be set for hearing on Jan. 26th, 1898.

In the Supreme Court of the Territory of Arizona.

APACHE COUNTY, Appellant,
vs.
JULIA BARTH, Executrix, Appellee. } No. 584. Minute Entry, Jan. 26th, 1898.

This cause, coming on for hearing, was argued by J. F. Wilson, attorney for appellant, and by Mr. T. W. Johnston, attorney for appellee, and cause ordered submitted.

In the Supreme Court of the Territory of Arizona.

APACHE COUNTY, Appellant,
vs.
JULIA BARTH, Executrix of the Will of Jacob Barth, Deceased, Appellee.
} No. 584. Minute Entry, April 16th, '98. Judgment.

357 This cause having been heretofore submitted and by the court taken under consideration, and the court having considered the same and being fully advised in the premises, it is ordered that the judgment of the district court herein be, & the same is hereby, affirmed.

358 In the Supreme Court of the Territory of Arizona.

APACHE COUNTY, Defendant & Appellant,
vs.
JULIA BARTH, Executrix of Jacob Barth, Deceased, Plaintiff & Appellee.
} Opinion.

Filed April 16, 1898, by Lloyd Johnston, clerk.

Appeal from the district court of Maricopa county—Hon. A. C. Baker, judge.

J. F. Wilson, attorney for appellant.
T. W. Johnson & E. M. Sanford, counsel for appellee.

Opinion by Doan, Justice.

This is an action by the executrix of Jacob Barth, deceased, based upon forty county warrants of Apache county, thirty-five of which are payable out of the general fund and five out of the road fund of said county. All were issued in the year 1884, all were presented in the year 1884, and after issue, to the appellant's treasurer for payment, and were by him endorsed "Not paid for want of funds." Again, in the year 1888, the said warrants were presented to appellant's board of supervisors to be exchanged for bonds under the funding act of 1887, which exchange was refused and the warrants in question were marked in red ink across the face thereof by the said board of supervisors "forgery," and then returned to their owner. Suit was commenced in Apache county in the year 1891, and after various changes of venue was finally tried in Mari-
359 copa county on the 6th day of May, 1896, on which trial the counsel for plaintiff voluntarily withdrew all claim on eleven of said warrants "because a careful microscopical examination of the said eleven warrants would show there had been an alteration of the figures, and that they had been vitiated by being raised, and on them the plaintiff made no claim." The case was submitted to the court and taken under advisement, and thereafter, on the 20th day of March, 1897, the court found that all of the warrants sued on except the eleven that were withdrawn were valid, subsisting and legal claims against the said defendant, Apache County,

and judgment was rendered on the remaining twenty-nine of said warrants in favor of the plaintiff and against the defendant for the sum of $14,352.13 and costs of the action, from which judgment defendant has appealed to this court.

The appellant has presented five assignments of error, as follows:

"First. The court erred in not sustaining defendant's general plea of limitation.

Second. The court erred in not sustaining defendant's special plea of limitation to each of the forty counts set up in plaintiff's amended complaint and in finding against those pleas.

Third. The court erred in finding that the warrants sued — and each of them, save those admitted to be forged, was and were legally issued.

Fourth. The court erred in finding against defendant's plea that the said warrants and each of them were forged and of no binding effect on defendant.

360 Fifth. The court erred in rendering judgment for plaintiff and against the defendant for the reasons that the said judgment was contrary to the evidence in the case, and that it was contrary to the evidence as shown by the record and against the law of the case."

We will consider these assignments in their natural rather than in their numerical order. The first point is that raised in the third assignment, "That the court erred in finding that the warrants sued on and each of them was and were legally issued." It has been held by the courts generally that county and city warrants signed by the proper officers are *prima facie* binding and legal. These officers will be presumed to have done their duty. Such warrants make a *prima facie* cause of action. Impeachment must come from the defendant. "Dillon, Mun. Cor., sec. 502, and cases cited." These warrants, copies of which were attached to the complaint and the warrant- themselves, introduced in evidence, were proper in form and appearance. The wording was in accordance with the requirements relative to such warrants. The names and signatures were of the proper officers and appeared to be genuine.

Evidence to show fraud or corruption or want of authority in their issue could have been presented, and, if presented, should have been received by the court, but in default of evidence overturning the presumption in favor of the legality of their issue the ruling of the district court was correct. The record does not show any defense offered by the defendant further than the denial of their execution, and the empty denial, unsupported by any evidence, was insufficient to overcome the presumption established.

361 The next assignment is the fourth, "That the court erred in finding against defendant's plea that the said warrants and each of them were forged and of no binding effect on defendant." This leads us to consider the nature of the pleadings. The complaint was founded upon the warrants in question, copies of which were attached thereto and the originals were filed in the case and introduced in evidence.

Par. 735 of the Revised Statutes of Arizona provides, "Any answer setting up any of the following matters, unless the truth of the pleadings appear of record, shall be verified by affidavit:" A denial of the execution by himself or by his authority of any instrument in writing upon which any pleading is founded, in whole or in part, and charged to have been executed by him or his authority.

The answer of the defendant denies that the board of supervisors of said county of Apache ever ordered the issuance of the said warrants sued on or either of them; "denies that the said warrants or any or either of them were ever issued or directed to be issued by the board of supervisors of the said county of Apache or by the authority of said board." This answer, up to the time the case went to trial and the plaintiff had presented her evidence and rested her case was unverified, but after the plaintiff had rested and defendant desired to establish the forgery of the warrants, it was permitted by the court to verify its answer. The verification was then made by the then recorder and *ex officio* clerk of the board of supervisors in the following language: "M. Gonzales, being duly sworn, says that he is the clerk of the board of supervisors of the county of Apache, in the Territory of Arizona, and the custodian of the records
362 of said board; that he has heard read the above and foregoing answer of The County of Apache, defendant in the above and foregoing action, and that the facts therein stated as defenses to the various causes of action declared on are true and the warrants sued on are not genuine. Subscribed and sworn to the 6th day of May, 1896."

It has been objected to this verification that it has not the essential elements of the affidavit required in the statute, and therefore is not sufficient to permit the defendant to attack the execution of the warrants on the ground that the affidavit does not contain an allegation of knowledge on the part of the affiant, nor of information or belief upon points not within affiant's knowledge; that an affidavit that the facts stated are true does not apply to a denial, and that the allegation that "the warrants sued on are not genuine" is the statement of a conclusion of law. These points would be material if the defendant had gone forward under the verification to the answer and presented evidence to disprove the execution of the warrants or to establish their invalidity by virtue of fraud, irregularity, or other cause; but as the only office of the verification would be to enable the defendant to establish such defense, and as no proof was offered and rejected by the court for which rejection error is assigned, and none was presented to overcome the presumption established by the *prima facie* case already made by the plaintiff, the sufficiency of the verification does not become material, and any ruling thereon herein would be simply *obiter dictum*, unless on the theory advances by defendant, that the verification of the answer by defendant necessitates plaintiff's establishing by corroborative
363 affirmative evidence the execution and issue of the warrants and the regularity and legality of the actions of the board in so doing. This position is not tenable. The weight of authority is decidedly that the effect and extent of the verification

is to enable defendant to disprove by affirmative evidence the execution of the warrants or the regularity or legality of the proceedings on which their issue was based, and that the *prima facie* case already made by the presentation of the warrants duly executed and in proper form stands until thus destroyed.

The Sup. Ct. of the U. S. held in a similar case, in Wall *v.* Co. of Monroe, 103 U. S., 74: "The warrants in suit are evidences of indebtedness by the county issued by that branch of its government to which is entrusted by the laws of the State the examination and approval of claims against the county. They are orders upon the treasurer to pay out of its funds for county purposes, not otherwise appropriated, the amounts specified. They establish *prima facie* the validity of the claims allowed and authorize their payment."

The defendant objected to the introduction of the warrants in evidence. The court took the evidence subject to the objections, reserving his ruling thereon; hence there is no exception on the part of the defendant to the ruling of the court admitting the warrants in evidence; but at the time plaintiff made her case and offered the warrants in evidence there was no verified answer before the court to prevent the allowance of the warrants in evidence; hence it is not necessary to decide whether a verified answer should have excluded such warrants from evidence until duly proven. The answer was verified after plaintiff's evidence had been presented and *prima facie* claim established and plaintiff had rested her case. "The plaintiff made a *prima facie* case when she
364 produced and proved her warrants. * * * The burden would then be shifted to defendant to overturn the presumption of liability." Grayson *v.* Latham, 4 So. Rep., 202.

The *prima facie* case thus made might have been overcome by disproving the issue of the warrants or the allowance of the claims on which they were based or the legality or validity of such action by the board, if it had actually been taken. The denial of their signatures by the officers whose names were attached to the warrants or by experts or persons familiar with those signatures or the presentation of the records of the board covering the dates on which the warrants were alleged to have been issued, if such records failed to show the authorization of the issue of the warrants or the allowance of the claims on which the warrants were based, would have affected their validity. There was no evidence, however, introduced by the county tending to disprove the issue of the warrants in question by the board of supervisors, nor was there anything offered to attack or question the legality or regularity of their issue. The defendant introduced the testimony of the recorder of the county and clerk of the board, who was at the time of trial the custodian of the records. The records of the county produced by him showed that the records of the allowance of claims and issue of warrants in the year 1884 were entirely absent, and that the only record was that commencing in the years 1885. Neither he nor any other witness produced by the defendant offered testimony of any personal knowledge relative to the issue of the warrants in question by the board or the allowance by the board of the claims in payment for which

the warrants in question were issued. On this evidence the
365 district court held that the warrants presented, apparently regularly and properly issued, were *prima facie* evidence of a valid, legal, and subsisting claim against the said defendant, Apache County, and that finding will not be disturbed by the appellate court.

It is contended by the appellant that the court erred in not sustaining defendant's general plea of limitation. Our statute provides, R. S., par. 2314, that "actions for debt where the indebtedness is evidenced by or founded upon any contract in writing executed within this Territory, shall be commenced and prosecuted within five years after the cause of action shall have accrued and not afterwards." The warrants sued on were issued in 1884. Suit was instituted in 1891. The appellant therefore contends that the claim is barred by the statute. It is necessary to consider the nature of the claim and the statutes under which the warrants were issued, as well as the intermediate steps taken by the claimant during this time, in order to determine when the cause of action accrued, *i. e.*, to determine at what time under the contract he had such a claim against the county as could have been enforced by an action at law.

The compiled laws of 1877, under authority of which these warrants were issued, provide, chap. 6, sections 9 to 13, as follows:

"SEC. 9. The county treasurer, when an order drawn on him as such treasurer by the commissioners of his county is presented for payment, shall, if there be money in the treasury for that purpose redeem the same and shall write on the face of such order "Redeemed" the date of redemption and shall sign his name thereto.

SEC. 10. When any order or warrant shall be presented to
366 the county treasurer for payment and the same is not paid for want of funds, the treasurer shall endorse thereon "Not paid for want of funds," annexing the date of presentation and sign his name thereto, and from that time until redeemed, said order or warrant shall bear ten per cent. interest per annum.

SEC. 11. So soon as there shall be sufficient funds in the treasury of the county to redeem the orders or warrants drawing interest, the county treasurer shall give notice, stating therein that he is ready to redeem said orders or warrants and from the date of such notice, said orders or warrants shall cease to bear interest.

SEC. 13. Orders or warrants drawn on the county treasurer and properly attested shall be entitled to preference as to payment out of moneys in the treasury, properly applicable to such order, according to the priority of time in which the same may have been presented. The time of presenting such order shall be noted by the treasurer, and upon the receipt of any moneys into the treasury not otherwise appropriated it shall be the duty of the treasurer to set apart the same or so much thereof as may be necessary for the payment of such order or warrant."

It appeared in evidence on the trial of the case that the warrants sued on had in each instance after their issue by the board been presented to the county treasurer and had been by him endorsed

thereon "Not paid for want of funds," with the date of the presentation and the signature of the county treasurer affixed thereto.

It was also proven on the trial that the first date at which there were sufficient funds in the county treasury to redeem any
367 of the said warrants was on the 19th day of April, 1888, and at that time the notice for the presentation of such warrants was made as provided in the statutes; it was further proven that the funds then in the treasury for this purpose were provided under the funding act of 1887, approved March 2nd, 1887, for the purpose of enabling the several counties to pay, redeem, or refund their outstanding indebtedness by the issue of bonds for such purpose, which bonds should either be exchanged for the warrants thus outstanding and drawing interest or be sold and the funds arising from such sale placed in the county treasury and known as the county redemption fund, and applied to the payment of outstanding county indebtedness under the provisions of that act, one of which was par. 2066, R. S. 1887: "The treasurer shall pay no warrant nor exchange for any warrant under this act unless the same has been presented to the board of supervisors and approved by a majority of such board, provided if, after any warrant has been refused by the board, the person holding the same shall recover a judgment against the county on such warrant, the said judgment may be paid under the provisions of this act."

It appears that the holder of these warrants presented the same under the provisions of the last section to the board of supervisors of the appellant in the year 1888 in order to have them approved by said board for payment or exchange by the county treasurer, according to his advertisement, under the funding act, and that the warrants were then refused by the board, marked "forgery," and returned to the holder. It is contended by the appellant that the cause of action against the county accrued on the date of the issue of the warrants, and that the statute began to run from that time.
368 It is contended by the appellee that the cause of action did not accrue until there were sufficient funds in the treasury to pay such warrants, which the testimony in this case shows to have been on the 19th of April, 1888.

A county warrant is different from a promissory note, although it has been said that a county warrant is, in legal effect, "the promissory note of the county." 19 Ind., 450, Board of Com. *v.* Day. In the case of a promissory note or a bond, with a definite time of payment, a cause of action accrues immediately upon the maturity of the instrument or the date of payment as fixed therein, but with a county warrant the case is different. "A municipal corporation is a subordinate branch of the domestic government of the State. As a local government institution, it exists for the benefit of the people within its corporate limits. Indebtedness may be incurred to a limited extent in carrying out the objects of the corporation. Evidence of such indebtedness may be given to the public creditors, but they must look to and rely on the legitimate mode of raising the funds for its payment. That mode is taxation." Mayer *vs.* Ray, 19 Wall., 468.

It was held in Brewer *vs.* Otoe County, 1 Neb., 373 to 384, in a similar case, arising under statutes almost identical with ours, that "whoever deals with the county and takes in payment of his demand a warrant in the character of these, no time of payment being fixed, does so under the implied agreement that if there be no funds in the treasury out of which it can be satisfied, he will wait until the money can be raised in the ordinary mode of collecting such revenues. He is presumed to act with reference to the actual
369 condition of the laws regulating and controlling the business of the county. He cannot be permitted, immediately upon the receipt of such warrant, to resort to the courts to enforce payment by judgment and execution without regard to the condition of the treasury at the time or of the laws by which the revenues are raised and disbursed. If there is money in the treasury belonging to the fund against which it is drawn not otherwise provided, it is the duty of the treasurer to pay the warrant, but, if there be none, he must endorse upon it the fact of its presentation and non-payment for want of funds, and the holder must wait for his money until such time as it can be raised through the means which the legislature provides for the collection of revenues; nor can any action rightfully be brought on such warrant until the fund is raised, or at least sufficient time has elapsed to enable the county to levy and collect it in the mode provided in the revenue laws. The plea of the statute of limitations cannot be successfully made against these warrants, and whenever it can be shown that the funds have been collected out of which they can be paid, or sufficient time has been given to do so in the mode pointed out in the statutes, their payment may be demanded and, if refused, legally coerced." This decision of the supreme court of Nebraska was quoted and approved by Chief Justice Waite, of the U. S. Sup. Ct., in King Iron Bridge Co. *v.* County of Otoe, in 124 U. S., 459, in which the court held, in a suit on warrants under similar circumstances to the case at bar, that "the cause of action did not accrue when the payment was refused for want of funds, but only when the money for their payment is collected or time sufficient for the collection of the money has elapsed."

370 The application of this ruling to the case at bar is strengthened by the fact that it was rendered on the theory, as it is laid down generally, "that the judgment against a county or a municipal corporation is ordinarily no more than the mere establishment of a valid claim, for which it is the duty of the proper officers to provide means of payment out of the revenues of the defendant." Freeman on Ex., par. 22; Beach on Pub. Cor., 1653; Dillon on Mun. Cor., 576, and cases cited. But in this instance our statute specifically provides, sec. 19, chap. 2, Laws of 1877, "When judgment shall be recovered against the county commissioners or against any county officer, in an action prosecuted by or against him in his name of office, no execution shall be awarded or issued upon such judgment, but the same, unless reversed, shall be levied and collected as other county charges, and when so collected shall be paid by the county treasurer to the person to whom the same

shall have been adjudged upon the delivery of the proper voucher;" so that to hold that a right of action would exist in favor of the holder of the warrants or orders immediately after issue and non-payment for want of funds would authorize a suit against the county, which would only have entitled the successful litigant to a warrant drawn upon the treasurer by the same *same* board, who had already drawn upon the treasurer the warrant upon which the suit was brought, which would be a useless procedure, and demonstrates clearly that such is not the contemplation of the law. The further fact is alleged that thirty-five of these warrants were payable out of the general fund and five of them out of the road fund, and it has been repeatedly held by the courts in different States
371 and by the Sup. Ct. of the U. S. in Lincoln Co. *v.* Luning, 133 U. S., p. 529, that "when payment is provided for out of a particular fund to be created by the act of the debtor he cannot plead the statutes of limitations until he shows that that fund has been provided." No provision was made by the county for the payment of these warrants until 1888. The statute of limitations did not therefore begin to run against the warrants until that time, and this suit, filed in 1891, was within the five years' limitation.

It is next assigned that the court erred in not sustaining defendant's special plea of limitation. Defendant alleged that the appellee "presented the said warrants and each of them to the board of supervisors on the 9th day of January, 1888, and the same were then and there adjudged to be forgeries and disallowed and rejected as binding obligations upon said county, and the plaintiff did not within six months thereafter bring action on said warrants against the said county after such rejection, as provided in par. 415, sec. 35, R. S. of A."

The R. S. provide in regard to the presentation and allowance of claims against the county, par. 412: "The board of supervisors must not hear or consider any claim in favor of an individual against the county unless an account properly made out, giving the items, duly verified, is presented to the board within six months after the last item of the account accrued." Par. 414: "When the board finds that any claim presented is not payable by the county or is not a proper county charge, it must be rejected. If they find it to be a proper county charge, but greater in amount than is justly due, the board may allow the claim in part and draw a warrant for the portion allowed." * * * Par. 415: "A
372 claimant dissatisfied with the rejection of his claim or demand or with the amount allowed him on his account, may sue the county therefor at any time within six months after final action of the board, but not afterwards."

These are provisions in regard to open accounts and unliquidated claims, and are intended to relieve the county from having to meet the items of an open account years after the data relative to the items thereof may have passed from the knowledge of the officer of the county, and they, therefore, be unable to establish the facts in regard thereto, or to resist fraudulent claims or incorrect statements, and do not apply to a liquidated claim that has

been audited and determined. On this subject, in Heffleman *vs.* Pennington Co., 52 N. W. Rep., 851, the court said: "The duty of the board is to judicially investigate the validity and justice of the claim and to allow or disallow the same in whole or in part, as to such board shall appear just or lawful. While the immediate purpose of the warrant is to enable the claimant to whom it is delivered to draw from the county treasurer the amount of money therein named, yet it rests upon and its issue and payment could only be justified upon the theory that after the full investigation the county had found itself to be so indebted, so that the warrant is a formal and deliberate acknowledgment by the county of such indebtedness."

In the case of the warrants now under consideration, when the board of supervisors audited and allowed the accounts presented and issued the warrants on the treasurer in payment thereof, they took those claims from the list of unliquidated accounts and
373 by their certificate and acknowledgment of the indebtedness of the county thereon placed them with the outstanding indebtedness of the county. The validity and amount of the liability were then distinctly fixed and warrants on the treasurer given, payable at a future time. The treasurer could pay them in order of presentation without further action of the board if he had funds in his hands applicable to that purpose, and the presentation to the board afterwards, in 1888, was not made under the provisions of par. 415, as claimed by appellant, but, as heretofore stated, was made under the provisions of par. 2066, R. S., for the purpose of having the board approve the payment or exchange of such warrants from the fund thus provided, and the said par. 2066 specifically provided that "if, after any warrant had been refused by the board, the person holding the same shall recover a judgment against the county on such warrant, the said judgment may be paid under the provisions of this act." It is under the provisions of this par. that this suit is brought. This directly contemplates action on the warrant, which is "an instrument in writing" to which the five-year limitation applies, and the six months' limitation provided by par. 415, for open accounts before adjustment, it is inapplicable.

The fifth general assignment does not call for special attention or direct ruling, as it is not definite or specific, and simply raises in general terms the points already presented in the former assignments. The record disclosing no error, the judgment of the district court will be affirmed.

FLETCHER M. DOAN,
Associate Justice.

We concur:

WEBSTER STREET,
Chief Justice.

GEO. R. DAVIS,
Associate Justice.

RICHARD E. SLOAN,
Associate Justice.

374 In the Supreme Court of the Territory of Arizona.

APACHE COUNTY, Defendant & Appellant,
vs.
JULIA BARTH, Executrix, &c., Plaintiff & Appellee.

No. 584. Motion for Rehearing.

Filed April 30th, 1898, by Lloyd Johnston, clerk S. et.

The County of Apache, the defendant and appellant in the above-stated cause, comes and moves the court for a rehearing of the above cause for the following causes, to wit:

First.

Because it seems apparent from the decision handed down by the court that the court, in passing on the points raised by the exceptions and statement of errors of fact and law pointed out in the said exception and brief, overlooked the force of the law brought out by the verification of defendant's and appellant's answer at the trial—that is:

1. That the effect of the statute and the intent of it were to require the plaintiff, relying on an instrument of writing, the genuineness of which was denied under oath, to establish the genuineness of the said instrument before the same could be admitted in evidence for any purpose whatever. In other words, that the intent and effect of such a verification was to throw the burden of proof on the plaintiff both as to the instrument and cause, as was the case at common law.

2. It seems apparent that the court overlooked the fact in
375 the record that the declaration on the warrants sued — was based on an alleged filing of an account of demands of different individuals as the authority for the issuance of the various warrants sued on before the alleged issuance of the said warrants, and which declaration was denied under oath and not met with any evidence whatever, and hence the rule that the denial of the facts asserted in the declaration or complaint, being denied under oath, casts the burden of every allegation made in the complaint on the plaintiff was also overlooked.

3. Because the holding, in the opinion handed down by the court in this cause, that the verification of the answer by appellant does not cast the burden of proof on the plaintiff, but only gives the defendant such standing in court as to authorize her to prove her defense, being a reversal and overthrow of the original rule in such issues, seems apparent error, which seems to have been overlooked by the court in its deliberations on this cause.

Second.

Because, in the opinion handed down by the court on the point of limitation, it seems apparent that the court overlooked the fact that the proof in the cause showed that the warrants of 1883 and 1885 had been paid before the issue in this cause in 1888 arose, and hence these warrants, if genuine, were limit*ated*, as a matter of fact,

by the fact of money having been raised for their payment before five years preceding the beginning of this action.

For all of which reasons appellant prays that this cause be reheard and the same, and on said rehearing, be reversed and judgment rendered as prayed in the original hearing.

376 J. F. WILSON,
Attorney for Appellant.

For a third statement appellant states and gives the court to know that the counsel for the appellee are T. W. Johnston and E. M. Sanford, both residents of the city of Prescott, in the Territory of Arizona.

J. F. WILSON,
Attorney for Appellant.

In the Supreme Court of the Territory of Arizona.

APACHE COUNTY, Appellant,
vs.
JULIA BARTH, Executrix, &c., Appellee. } No. 584.

Minute entry. Entered June 11th, 1898.

In this cause it is ordered that the motion for rehearing filed herein by appellant be, and the same is hereby, denied; whereupon Mr. J. F. Wilson, the attorney for appellant, gave notice in open court for appeal to U. S. Supreme Court, which is hereby granted.

In the Supreme Court of the Territory of Arizona.

THE COUNTY OF APACHE, IN THE TERRITORY OF ARIZONA, Appellant,
vs.
JULIA BARTH, as Executrix of Will of Jacob Barth, Deceased, Appellee. } Affidavit of Value.

Filed June 11th, 1898, by Lloyd Johnston, clerk sup. ct.

377 J. F. Wilson, being duly sworn, on oath says that he is the attorney of record for the appellant, County of Apache: that he is familiar with the facts and the record in this cause; that he knows of his own knowledge the amount in controversy in this action, and that the same is of the value of fourteen thousand three hundred and fifty-two and $\frac{13}{100}$ dollars ($14,352.13).

That the same accrues because of the fact that such sum to wit, the said sum of $14,352.13, is the amount for which appellee demanded judgment on county warrants alleged to have been issued by the said county of Apache and by her authority, and for which amount a money judgment was rendered, and that this affidavit is made to show, aside from the judgment, the jurisdiction as to amount involved.

Subscribed and sworn to before me this the 11th day of June, 1898.

[Seal Sup. Ct.]

LLOYD JOHNSTON,
Clerk of the Supreme Court of Ariz.

In the Supreme Court of the Territory of Arizona.

THE COUNTY OF APACHE, IN THE TERRITORY OF ARIZONA, Appellant,
vs.
JULIA BARTH, as the Executrix of the Will of Jacob Barth, Appellee.
} Petition for Appeal.

Filed June 11th, 1898, by Lloyd Johnston, clerk sup. ct.

378 The above-named appellant, the said County of Apache, in and for the Territory of Arizona, forming a part, conceiving herself aggrieved by the final judgment of the supreme court of said Territory of Arizona, entered on the final hearing on petition for rehearing in said cause, on the 11th day of June, 1898, in which judgment the judgment of the district court of Maricopa county, within and for the second judicial district in and for the Territory of Arizona, was affirmed, and in which judgment said appellant, the said County of Apache *County*, was adjudged to owe and be indebted and required to pay to the said appellee on certain county warrants declared on in said action the sum of fourteen thousand three hundred and fifty-two and $\frac{13}{100}$ dollars ($14,352.13), in which judgment the said appellant was defendant in the court below, and prayed judgment that the appellee, the plaintiff in said court below, should take nothing by her action for reasons there assigned, and in which judgment of affirmance appellant prayed judgment to the same effect for reasons then and there assigned, and that she go hence without day and recover her costs in said action expended.

Therefore she, the said appellant, hereby appeals from said judgment of the supreme court of the Territory of Arizona to the Supreme Court of the United States, and prays that her appeal may be allowed, and that a transcript of the record, proceedings, judgment, decision, and opinion in this cause be duly authenticated and sent to the Supreme Court of the United States.

J. F. WILSON,
Attorney for Appellant.

379 And now, to wit, on this the 11th day of June, A. D. 1898, the appeal prayed for in the foregoing petition is hereby allowed, with citation to issue on filing of bond in the penal sum of two thousand dollars, with two or more good sureties, to be approved by the chief justice of said supreme court of said Territory of Arizona.

WEBSTER STREET,
Chief Justice of the Supreme Court of the Territory of Arizona.

In the Supreme Court of the Territory of Arizona.

THE COUNTY OF APACHE, IN THE TERRITORY of Arizona, Appellant, *vs.* JULIA BARTH, as Executrix of Last Will of Jacob Barth, Appellee.	Statement of Facts.

Filed June 11th, 1898, by Lloyd Johnston, clerk.

Statement of facts by the supreme court of the Territory of Arizona, sitting as a court of appeal from the district court of the second judicial district of Arizona in and for the county of Maricopa, where the cause was tried without a jury and judgment rendered against appellant for $14,352.13, and appellant appealed.

The supreme court takes the facts as found by the district court on the trial in that court and as shown by the record and makes them the statement of the facts in this cause.

This court finds that the district court did not commit error in finding against the plea of limitation set up by appellant.

380 The court further finds that the district court did not commit error in granting and rendering judgment in favor of appellee on the warrants sued on and against appellant, notwithstanding the verified answer of appellant. The supreme court further finds that the district court did not commit error in refusing to render judgment for appellant on the verified answer of appellant, notwithstanding appellee did not introduce any evidence to establish the genuineness of said warrants for which appellee asked judgment, because the court finds that the warrants were verity of themselves, and the verified answer only put appellant in position in court to prove the facts set up in her answer and did not put appellee on proof of their genuineness; hence the supreme court finds as a conclusion that the judgment of the district court should be affirmed. Judgment of affirmation and confirmation is therefore ordered and directed.

This June 11th, 1898.

WEBSTER STREET,
Chief Justice of the Supreme Court of the Territory of Ariz.

381 In the Supreme Court of the United States of America.

THE COUNTY OF APACHE, IN THE TERRITORY OF Arizona, Appellant,
vs.
JULIA BARTH, as Executrix of the Will of Jacob Barth, Deceased, Appellee.
} Citation to Appellee.

Filed Dec. 19th, 1898, by Lloyd Johnston, clerk.

THE UNITED STATES OF AMERICA:

To Julia Barth, as the executrix of the will of Jacob Barth, Greeting:

You are hereby cited to be and appear at a Supreme Court of the United States, to be holden at the city of Washington, D. C., on the second Monday of October, A. D. 1899, pursuant to an appeal allowed by the honorable chief justice of the supreme court of the Territory of Arizona on the — day of June, 1898, from a judgment rendered by the supreme court of the Territory of Arizona on the 11th day of June, 1898, the same being so rendered on final hearing on appellant's motion for rehearing in an action pending in that court in which you were the appellee, having been plaintiff in the court below, and the said County of Apache was appellant, having been defendant in the court below, for $14,352.13, then and there to show cause why that said judgment in your favor should not be set aside, reversed, corrected, and speedy justice should be done to the parties in whose behalf said appeal is taken and allowed.

382 Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this the 19th day of December, 1898.

WEBSTER STREET,
Chief Justice of the Supreme Court of the Territory of Arizona.

I, T. W. Johnston, attorney of record for the appellee, Julia Barth, executrix of the last will of Jacob Barth, deceased, hereby acknowledge service of the above and foregoing citation and waive any and all further service, either of further copy of the same or of precept because hereof.

This the 20th day of December, 1898.

T. W. JOHNSTON,
Attorney for Appellee Herein.

383 In the Supreme Court of the United States of America.

APACHE COUNTY, OF THE TERRITORY OF Arizona, Appellant,
vs.
JULIA BARTH, Executrix of the Will of Jacob Barth, Deceased, Appellee.

No. 584. Appeal Bond.

Filed November 7th, 1898, by Lloyd Johnston, clerk.

Know all men by these presents that we, The County of Apache, in and of the Territory of Arizona, as principal, and W. H. Burbage and James Scott and J. H. Frisby and —— ——, as sureties, all of the county of Apache and Navajo, in the Territory of Arizona, are held and firmly bound to the appellee herein, Julia Barth, as the executrix of the last will of Jacob Barth, deceased, in the sum of two thousand dollars, to be paid to the said appellee, to her successors, her heirs, and assigns; — which payment, well and truly to be made, we bind ourselves, our heirs, executors, administrators, and assigns, jointly and severally, by these presents.

The conditions of the above obligations are such that — the above-named appellant shall prosecute her appeal with effect and if she fails to make her pleas good she shall answer and pay all costs and damages because of this appeal, then and in such event this bond shall be void; otherwise to remain in full force and virtue.

Witness our hands this the 14th day of July, 1898.

APACHE COUNTY, ARIZONA,
By W. H. GIBBONS,
Chairman Board of Supervisors.

384 W. H. BURBAGE,
JAMES SCOTT,
J. H. FRISBY, *Sureties.*

TERRITORY OF ARIZONA, } ss:
County of Apache, }

On this the 14th day of July, 1898, personally appeared before the undersigned, a clerk of the district court of the county of Navajo, in the Territory of Arizona, the undersigned sureties on the foregoing bond for appeal, and upon oath each for himself, and not one for the other, states that he is a *bona fide* resident citizen of the Territory of Arizona, is a householder therein, and that he is worth the sum of the said bond in property subject to execution in said Territory over and above all of his liabilities and legal exemptions.

W. H. BURBAGE.
JAMES SCOTT.
J. H. FRISBY.

Subscribed, sworn to, and sealed in my presence and before me this the 14th day of July, 1898.

[Seal Dist. C't, Navajo Co.]

W. B. WOODS,
Clerk of said Court.

I, Webster Street, chief justice of the supreme court of the Territory of Arizona, hereby approve of the within bond and of the sufficiency of the sureties thereto.

This the 18th day of October, A. D. 1898.

WEBSTER STREET,
Chief Justice of the Supreme Court of the Territory of Arizona.

385 In the Supreme Court of the Territory of Arizona.

MRS. JULIA BARTH, Appellee,
vs.
APACHE COUNTY, Appellant.
} No. 584. *In re* Bond of Appellant.

Filed November 7th, 1898, by Lloyd Johnston, clerk.

To the Honorable Webster Street, judge, etc.:

W. H. Burbage, one of the sureties on bond of appellant herein, being first duly sworn, says that he is a member of the firm of Kinder & Burbage, a copartnership consisting of R. C. Kinder and W. H. Burbage; that deponant's interest in said partnership consists of a one-half interest.

That the property of said firm consists of 3,700 head of sheep, of the value per head of $3.00; total.....	$11,100.00
Patented land in Coconino county.....	500.00
45 rams; per head, $8.00.....	260.00
Horses, harnesses, camp outfit, etc..... ...	200.00
	$12,160.00

Of the above deponant owns an undivided one-half interest; in round numbers, $6,000.00.

Deponant further says that he owns a one-half interest in a certain band of sheep grazing in Coconino county, Arizona, of which the other one-half interest is owned by J. X. Woods, of Winslow, Arizona. Said band of sheep numbers 2,300, of the value per head $3.00; total value, $6,900.00.

386 Deponant's one-half interest in said band of sheep amounts in round numbers to $3,000.00.

This band of sheep was purchased by Woods and Burbage in May, 1898, after the regular assessment, and does not appear on the assessment-roll of said Coconino county.

Deponant further says that he has acquired by purchase lot No. —, block No. —, in the town of Winslow, Navajo county, Arizona, known as the Martin Sheeby lot, and said property appear upon the assessment-rolls of Navajo county in the name of Martin Sheeby. This property was purchased by deponant in July, 1898, and the deed is of record in the records of said Navajo county; title in the name of deponant; value, $1,200.00.

Deponant further says that he is not an attorney of record in said

cause, and that he has no interest in said action other than as a citizen of Arizona and tax-payer of Navajo county.

Furthermore deponant sayeth not.

W. H. BURBAGE.

STATE OF CALIFORNIA, }
County of Los Angeles, } ss:

Before me, the undersigned authority, on this day personally appeared W. H. Burbage, known to me to be the person whose name is subscribed to the foregoing affidavit and who acknowledged to me that the same is true of his own knowledge.

Subscribed and sworn to before me this 28th day of July, A. D. 1898.

My commission expires March 25th, 1900.

[SEAL.] GEO. S. WILSON,
Notary Public.

387 In the Supreme Court of the Territory of Arizona.

MRS. JULIA BARTH, Appellee, }
vs. } No. 584. Objection to Appellant's Bond on Appeal.
APACHE COUNTY, Appellant. }

Filed November 19th, 1898, by Lloyd Johnston, clerk. Service of copy of within acknowledged 2, '98. J. F. Wilson, att'y for appellant.

To the Honorable Webster Street, judge, etc.:

Comes now the said appellee and objects to and protests against the approval by you of the bond on appeal by the appellant offered in the sum of two thousand ($2,000.00) dollars, with J. H. Frisby, James Scott, and W. H. Burbage, as sureties, for the reason that appellee charges that, with the exception of one, said sureties are not competent, and that said bond, in view of the time that it is expected to cover, is the merest pretense for security, as will appear from the certified copy of the assessment-roll of Navajo county, hereto attached, marked Exhibit "A," and prayed to be read as a part hereof, each of said sureties residing in said county and all of their property being therein situate, and from which it will appear that J. H. Frisby owns no real estate and about $1,800 worth of sheep, out of which, as the head of a family, he has an exemption of $1,000. James Scott has the only pretense of security, owning about $5,000 worth of sheep, with a similar exemption; that the firm of Kinder and Burbage, of which W. H. Burbage is a member, and in which he has some undefined interest, owns $3,750
388 worth of sheep. In addition, said Burbage is the district attorney of Navajo county, and, while his name does not appear upon the record, by virtue of his office and otherwise, he has been virtually an attorney in the case. It is shown that the only property that said sureties have is of the most transient and passing character, and that, — is respectfully submitted, is utterly insufficient

to secure the two thousand ($2,000.00) dollars from three to five years hence.

Wherefore appellee prays that appellant be required to give another and additional sureties upon said bond.

Respectfully submitted.

T. W. JOHNSTON,
Att'y for Appellee.

TERRITORY OF ARIZONA, } ss:
County of Yavapai, }

T. W. Johnston, being first duly sworn, deposes and says that he is the attorney for the appellee in the above-entitled case; that he makes this affidavit because of the absence and inaccessibility of appellee herein; that he has read the foregoing objections to the insufficiency of the sureties on appellant's bond on appeal and knows them to be true, except as to the matters therein stated on information and belief, and as to them he believes them to be true.

T. W. JOHNSTON.

Subscribed and sworn to before me this 25th day of July, 1898.

JENNIE C. WILLIS,
Notary Public.

[SEAL.]

My commission expires 5, 13, 1902.

389 EXHIBIT "A."

The following — taken from the assessment-roll of Navajo county, Arizona (year 1898):

J. H. Frisby, Snowflake, Ariz.:

2 work hs., $50; cow, $16.65; 1,500 sheep, $1,875.00; wagon, $10; harness, $15; chicks., $1.50; machinery, $50; musical inst., $30; jewelry, $20; H. H. goods, $75; value personal property	$2,143.05
Lots, imp'v'ts on land	
Total valuation	$3,178.05

Jas. Scott, Holbrook, Ariz.:

Saddle hs., $15; 15 stock hs., $150; 3 jacks, $15; 3,300 sheep, $4,950.00; 1 doz. chicks., $3; piano, $100; H. H. goods, —; value personal property	$5,333.00
Lots, imp'v'ts on land	
Total valuation	$6,570.50

Kinder & Burbage, Holbrook, A. T.:

1 work-horse, $15; 4 jacks, $20; 2,500 sheep, $3,750; harness, $10; personal property	$3,795.00
Total valuation	$3,795.00

ARIZONA TERRITORY, } ss:
County of Navajo, }

I, W. B. Woods, clerk of the court of the fourth judicial district in and for the county of Navajo, Territory of Arizona, hereby certify that the above is a correct statement of the items of real and personal property, together with the several amounts of valuation upon each, as appearing opposite the names of the above-named persons on the assessment roll of Navajo county, Arizona, for the year 1898.

In witness whereof I hereto set my hand and affix
Seal Dist. Ct. the seal of said court on this the twenty-third day of July, A. D. 1898.

W. B. WOODS,
Clerk Dist. Court.

390 In the Supreme Court of the Territory of Arizona.

APACHE COUNTY, Appellant,
vs.
JULIA BARTH, Executrix of the Will of Jacob Barth, Deceased, Appellee. } No. 584.

Order for Additional Bond.

Filed November 28th, 1898, by Lloyd Johnston, clerk.

On this the 28th day of November, 1898, the objections of the appellee to the appeal bond filed in this cause by appellant, filed since the approval of said bond, come on to be heard before the chief justice of the supreme court of Arizona, and on hearing thereof it appearing to the chief justice that there is some question as to the right or authority of W. H. Burbage to sign said bond, he being an attorney-at-law, and also some question as to the solvency of the surety, J. H. Frisby, it is therefore ordered that appellant file, on or before December 31st, 1898, additional bond for appeal.

Done at hearing this day and date first written.

WEBSTER STREET,
Chief Justice.

391 In the Supreme Court of the United States of America.

APACHE COUNTY, OF THE TERRITORY OF Arizona, Appellant,
vs.
JULIA BARTH, Executrix of the Will of Jacob Barth, Deceased, Appellee. } Additional Appeal Bond.

Filed December 19th, 1898, by Lloyd Johnston, clerk.

Know all men by these presents that we, the County of Apache, in and of the Territory of Arizona, as principal, and F. T. La Prade and W. A. Parr, as sureties, all of the county of Apache and Navajo,

in the Territory of Arizona, are held and firmly bound to the appellee herein, Julia Barth, as the executrix of the last will of Jacob Barth, deceased, in the sum of two thousand dollars, to be paid to the said appellee, to her successors, her heirs and assigns; — which payment, well and truly to be made, we bind ourselves, our heirs, executors, administrators, and assigns, jointly and severally, by these presents.

The conditions of the above obligations are such that — the abovenamed appellant shall prosecute her appeal with effect and if she fails to make her pleas good she shall answer and pay all costs and damages because of this appeal, then and in such event this bond shall be void; otherwise to remain in full force and virtue.

Witness our hands this the 6th day of Dec'r, 1898.

F. T. LA PRADE.
W. A. PARR.

392 TERRITORY OF ARIZONA, }
County of Apache. }

On this the 6th day of December, 1898, personally appeared before the undersigned, a clerk of the district court of the county of Navajo, in the Territory of Arizona, the undersigned sureties on the foregoing bond for appeal, and upon oath each for himself, and not one for the other, states that he is a *bona fide* resident citizen of the Territory of Arizona, is a householder therein, and that he is worth the sum of said bond in property subject to execution in said Territory over and above all of his liabilities and legal exemptions.

[Seal Dist. Co.]

F. T. LA PRADE.
W. A. PARR.

Subscribed, sworn to, and sealed in my presence and before me this the 6th day of December, 1898.

W. B. WOODS,
Clerk of said Court.

I, Webster Street, chief justice of the supreme court of the Territory of Arizona, hereby approve of the within bond and of the sufficiency of the sureties thereto.

This the 19th day of December, A. D. 1898.

WEBSTER STREET,
Chief Justice of the Supreme Court of the Territory of Arizona.

I have no objections to urge to the sureties on this bond.

JOHNSTON.

393 *Clerk's Certificate.*

UNITED STATES OF AMERICA, }
Territory of Arizona, } ss.

I, Lloyd Johnston, clerk of the supreme court, Territory of Arizona, by virtue of the foregoing appeal and in obedience thereto, do hereby certify that the foregoing pages, numbered from 1 to

392, inclusive, contain a true and complete transcript of the record and all proceedings had in said court in the case of Julia Barth, as executrix of Jacob Barth, deceased, appellant in appeal, against Apache County, appellees in appeal, as the same remain of record and on file in said office; also a true copy of citation issued by said supreme court of the Territory of Arizona.

Seal Supreme Court of Arizona.

In testimony whereof I have caused the seal of the said supreme court of the Territory of Arizona to be hereunto affixed, at the city of Phœnix, in the Territory of Arizona, this 27th day of December, A. D. 1898.

LLOYD JOHNSTON,
Clerk of the Supreme Court of the Territory of Arizona.

Endorsed on cover: File No., 17,244. Arizona Territory supreme court. Term No., 181. The County of Apache, appellant, *vs.* Julia Barth, as executrix of Jacob Barth, deceased. Filed January 3, 1899.

No. 151

Brief of Wilson for Appellant

Filed Jan. 13, 1900

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1899.

No. 151.

THE COUNTY OF APACHE,
Appellant,
vs.
JULIA BARTH, Executrix of Jacob Barth, Deceased,
Appellee.

Appeal from the Supreme Court of the Territory of Arizona.

APPELLANT'S BRIEF.

Filed this ..... day of ..... 1899.

.....
Clerk.

J. F. WILSON,
Attorney for Appellant.

IN THE

SUPREME COURT OF THE UNITED STATES.

October Term, 1899.

No. 181.

THE COUNTY OF APACHE, *Appellant,*
vs.
JULIA BARTH, Executrix of Jacob Barth, Deceased, *Appellee.*

Appeal from the Supreme Court of the Territory of Arizona.

APPELLANT'S BRIEF.

This was an action brought by Jacob Barth, formerly a resident of the county of Apache, in the Territory of Arizona, but, at the time of the bringing of the suit, he was a resident of Grand Rapids, Michigan.

The action was brought on September 10th, 1891, on forty alleged county warrants, alleged to have been issued to various individuals named in the complaint in the year 1884, and all of which had been transferred or assigned to him, amounting to $7,770.75, and that he was the owner thereof.

The said cause was transferred by change of venue to Coconino County in said Territory and filed in that Court October 3d, 1891; and thereafter, by change of venue, was transferred to the Yavapai County Court; and thereafter, on May 6th, 1896, was transferred to the District Court of

Maricopa County in said Territory, where it was finally tried. (As to these filings, see page 1 in the Transcript.)

The original complaint alleged that the defendant county was indebted to the plaintiff, making a general declaration upon all of the warrants, in the sum of $7,770.75, on account of the forty warrants sued on—alleged in a general way that the said county, through its officers and agents, between the 5th day of August, 1884, and the 1st day of January, 1885, made, executed, issued and delivered the warrants declared on. (See Transcript, pages 1 and 2.)

The plaintiff then made separate declarations, upon each of the various alleged warrants sued on in the following manner:

1.

Adopted paragraphs one and two of the first count and then declared as follows:

2.

That on the 13th day of July, 1884, said defendant, acting through its legal agents, to wit., its board of supervisors, in its open and regular session, made, executed, issued and delivered to Julius Becker his warrant or writing obligatory in the following words and figures, to wit:

No. 17. APACHE COUNTY WARRANT.

$69.50. ROAD FUND.

ST. JOHNS, A. T., July 13th, 1884.

Treasurer of Apache County will pay to Julius Becker the sum of Sixty nine and 50-100 Dollars for road work.

LUTHER MARTIN,

CHARLES KINNEAR, Chairman Board of Supervisors.

Clerk Board of Supervisors.

Wherein and whereby said defendant undertook and promised to pay to said Julius Becker on demand, said sum named in said warrant, for and on account of work done on defendant's road by said Julius Becker, at said defendant's special instance and request: (Folios 4 and 5, Transcript.)

3.

That thereafter, as provided by law, said warrant was presented for payment, and the payment demanded of the county treasurer of Apache County, and by him payment thereon was refused, and by him said warrant was duly registered for payment, and endorsed as follows, to wit: "Not paid for want of funds. Presented this 12th day of July, 1884. D. Baca, County Treasurer, A. Ruiz, Deputy."

4.

That after its said issuance by said board of supervisors, said warrant was endorsed by Julius Becker and Sol Barth, and by said endorser for a valuable consideration sold and delivered and now belongs to this plaintiff, of which defendant had due notice.

5.

That after said county treasurer had published notice, as provided by law, that said treasurer was prepared to pay said warrant, plaintiff presented the same to him and demanded payment thereon, which was by him refused; and thereafter and heretofore he presented the same for payment and demanded payment thereon from said board of supervisors of said Apache County, then and there being in regular and open session, and payment thereon was refused.

Wherefore, said sum of $69.50 and interest thereon at the rate of ten per cent per annum from the said 12th day of July, 1884, is due from defendant to this plaintiff on this warrant, and judgment demanded. (See Transcript, page 3, folio 5 to 6.)

This was special declaration on the first warrant declared on in one count, and they followed separate declarations of the same sort on all of the other thirty-nine warrants sued on, as will appear by reference to the record, pages 3 to 51, inclusive.

(We state this to show the form of the express declaration as set forth in the original complaint.)

This was answered, and various steps taken, until finally the original plaintiff died, leaving his widow, Julia Barth, as successor to his interest. She thereafter came forward, and on March 30th, 1896, filed an amended complaint, declaring upon each of each of the said warrants in separate counts. We here give the declaration on the first count to show the manner and the form of the issue tendered, which is in words and figures as follows (omitting the caption and cause):

1.

That at St. Johns, the county seat of Apache County, in the Territory of Arizona, on or about July 10th, 1884, said county being justly indebted to Julius Becker in the sum of sixty-nine dollars and fifty cents, which indebtedness was at that time due and unpaid, the board of supervisors of said county, then being in regular session, did duly admit, find, allow, adjudge and determine that there was due to the said Julius Becker in the premises, from said county, the sum of sixty-nine dollars and fifty cents, to be paid on account of the said indebtedness, and thereupon, to wit; on July 13th, 1884, the said board did allow, draw and issue to the said Julius Becker, a certain warrant of said county, numbered 17, signed by Luther Martin as the then chairman of the said board, and countersigned by Charles Kinnear as the then clerk of said board, which warrant commanded the treasurer of said county to pay to the said Julius Becker or order the sum of sixty-nine dollars and fifty cents out of the road fund of said treasury, a true copy of which warrant, with all endorsements thereon, is hereto attached, marked "Exhibit No. 1," and made a part hereof.

2.

That afterwards and on July 13th, 1884, said warrant was by the holder thereof duly presented to the treasurer of said county and payment thereof demanded, and which demand and payment was by the treasurer refused; that said treasurer then and there endorsed upon said warrant the following words, to wit: "Not paid for want of funds," and annexed thereto the date of said presentation and

signed his name thereto, all of which will more fully appear by reference to said "Exhibit No. 1."

3.

That in the year 1884 and after said warrant was presented to and endorsed, as aforesaid, by said treasurer, said warrant was by the said Julius Becker, for a valuable consideration, sold, transferred and delivered to one Sol Barth, who thereupon and for a valuable consideration sold, transferred, and delivered the same to said Jacob Barth, who then and there became and ever since then to and until the date of his death hereinafter mentioned was the owner and holder of said warrant.

4.

That in and by said presentation to and endorsement, as aforesaid, by said treasurer, the said warrant became, was, and is entitled to preference as to the payment out of moneys in said treasury appropriated to and belonging to said fund according to the priority of time in which the same was presented, as aforesaid, over other warrants on said fund; that said treasurer has not at any time since said warrant was so, as aforesaid, presented and endorsed by said treasurer, set apart any money nor so much as may be necessary for the payment of said warrant or any part thereof; that there has not been at any time since then nor is there now any moneys set apart in the said treasury applicable to the payment of said warrant or any part thereof.

5.

That afterwards and on or about the fifth day of April, 1887, the defendants board of supervisors, under and by virtue of chapter 2, title XXXI, of the Revised Statutes of Arizona, 1887, duly decided to fund and redeem all its outstanding indebtedness; and thereupon said board gave due notice that the said board would fund and pay in bonds all outstanding indebtedness of said county, including said warrant; and thereupon and within the time limited within said notice, to wit, on January 9th, 1888, said

Jacob Barth caused said warrant among others, to be presented to said board for approval, redemption and funding under said notice and law; but the said warrant or any part thereof the said board and said defendant failed and refused and still fails and refuses to approve, redeem or fund.

6.

That said defendant has at all times neglected and refused and now does neglect and refuse by levy of taxes, by setting apart of funds, by redemption, by funding or otherwise, to pay or provide for the payment of said warrant or any part thereof.

7.

That at the time of the commencement of this action the said Jacob Barth was a resident of the city of Grand Rapids, county of Kent, State of Michigan; that the defendant was during all the times hereinafter mentioned, ever since continuously has been, and now is a body politic and corporate within the Territory of Arizona.

8.

That on the fifth day of January, 1892, the said Jacob Barth, at said Grand Rapids, died, leaving a will whereby he appointed the plaintiff sole executrix thereof; that on the 8th day of February, 1892, said will was duly proved and admitted to probate in the Probate Court of said county of Kent; that a copy of said will so proved and admitted to probate as aforesaid, and together with the probate thereof duly authenticated, was by the said executrix presented on the 17th day of February, 1896, to the Probate Court of the county of Yavapai in said Territory, and thereafter, to wit, on the second day of March, 1896, the said copy of the said will and the probate thereof aforesaid was duly proved and allowed by the Probate Court last aforesaid, and that thereupon, on the 30th day of March, 1896, letters testamentary were duly issued and granted by the said Probate Court of said Yavapai County to the plaintiff, who thereupon duly qualified and entered

upon her duties as such executrix; which said letters ever since have been and are now in full force and unrevoked.

9.

That on the 30th day of March, 1896, this Court duly made and entered an order reviving the action in which this amended complaint is filed and continued the same in the name of this plaintiff.

10.

That the plaintiff is the owner and holder of said warrant, and that there is now due plaintiff thereon the sum of sixty-nine dollars and fifty cents, together with interest thereon, at the rate of 10 per cent per annum, from July 13th, 1884, until paid.

(See folios 118 to 122, inclusive, at pages 74, 75 and 76, Transcript.)

That was answered with an amended answer, beginning with folio 255, page 132, Transcript, which was in the following language: (Omitting the caption.)

1.

That she excepts to sufficiency of the said amended complaint, and demurs thereto, for the following reasons, to wit:

1. Because the said amended complaint fails to state facts sufficient to constitute a cause of action.

2. Because each and every warrant and all of the same show, upon their and each of their face, that more than five years elapsed from the date of the pretended issuance of the same and each of the same and from the time that they and each of them were presented to the treasurer of said county for payment until the bringing of this action against defendant, and therefore they and each of them and all of the same are barred by the statute of limitations.

Wherefore defendant prays judgment that plaintiff take nothing by her action herein, and for cost of this action and for all general relief.

J. F. WILSON,
Attorney for Defendant.

And for a second cause of defence defendant says:

That she denies each and every, all and singular, the allegations in the said amended complaint made, and every part thereof (except the death of the said Jacob Barth, the appointment of Julia Barth as executrix, and the presentation of the said pretended warrants, which defendant admits) as fully and specifically as if each denial was herein pleaded at length.

2. Denies that the said forty warrants or any or either of them herein sued on and which are exhibited in said amended complaint, numbering from No. 1 to No. 40, inclusive, was or were ever issued or directed to be issued by the board of supervisors of the said county of Apache or by the authority of said board.

3. Denies that the said board of supervisors of said county of Apache ever ordered the issuance of said warrants herein sued on or either of them, but, on the contrary, defendant alleges the fact to be that the said pretended warrants herein sued on and each of the same and all thereof were and each of them was falsely made and forged, and that they are and each of them is a forgery, and that they were so falsely made and forged with a fraudulent intent to defraud the said county of Apache.

For a third defence herein defendant says:

That the said plaintiff herein, the alleged holder and owner of the said warrants herein sued on, and those from whom the said warrants were obtained by plaintiff, because of the fact that the said warrants and all of them were and had been by the said county of Apache alleged to be forgeries and of no binding effect upon said county, on the 9th day of January, 1888, and while the said board

of supervisors of said county of Apache was in regular session at the court house, in the town of St. Johns, in said county, presented, and caused the same to be done, the said warrants and each and every one of them herein sued on and marked exhibits from No. 1 to No. 40, inclusive, to the said board of supervisors as a claim and claims, as binding obligations against the said county of Apache, and upon the hearing thereof by the said board the same and each of the same were adjudged to be forgeries and were then and there disallowed and rejected as binding obligations upon said county of Apache and no proper charge against her.

That said plaintiff and all concerned in said warrants and each of them did not appeal from said order of rejection, nor did the said plaintiff nor the said Jacob Barth, who then and there presented the said warrants and each of them to the said board for allowance, as aforesaid, did not, within six months nor for many years after, bring action on said warrants against the said county after the final action of the said board aforesaid, as is provided in paragraphs 415, section 35, Revised Statutes of Arizona, and hence defendant here says that the said plaintiff herein should not be permitted to maintain this suit because of the same being barred by the statute of non-claim in such cases.

Wherefore defendant prays judgment, etc., as in first paragraph of this answer.

For a fourth and special defence herein defendant says:

She denies that the said county of Apache was on the 10th day of July, 1884, or at any other time or at all, indebted to Julius Becker for the sum of sixty-nine dollars and fifty cents or any other sum.

2. Denies that on the 13th day of July, 1884, or at any other time or at all, the said county of Apache, by and through the board of supervisors, did allow said claim for the said amount above made and denies that the said board of supervisors on said day did cause that certain

warrant, of said county, No. 17, to be issued, and denied that it was ever issued by authority of said county or of said board of supervisors.

And in connection herewith defendant avers that the said pretended warrant No. 17, and made Exhibit No. 1, was not and is not genuine, but was and is a forged instrument, and was forged for the purpose of defrauding the said county of Apache.

Defendant further avers that said pretended warrant upon its face shows that more than five years have elapsed from the time the same purports to have been issued and presented to the county treasurer of said county for payment until the bringing of this action; hence defendant says *actio non*.

Wherefore defendant prays judgment, etc., as in first paragraph herein.

(See folios 215 to 218, inclusive, at pages 132, 133 and 134, Transcript.)

This was the answer made generally and specially, joining issue of both law and fact, to the first count. Plaintiff's separate declarations on the other thirty-nine alleged warrants were answered in precisely the same way, with the same character of answer, making the same issues in each count from first to last.

They all being the same, we set out only the issues joined on the first count, and on this present the case, because it was on this that the case was finally tried on May 6th, 1896, in the District Court of Maricopa County, Territory of Arizona.

This gives the true state of the pleadings in the case as they began and as they existed at the time the case went to trial and was tried, and out of these the questions of law and fact arose; and it was upon the hearing on these issues that judgment was rendered against the defendant county in the sum of $14,352.13, and appellant appealed.

It will be seen, therefore, from the declarations and answer, that the issues were:

First. A question of law raised by special demurrer, raising the question of limitation, interposed because the warrants showed on their face that more than five years had elapsed from the date of their pretended issue, etc., to the time of bringing the action.

Second. Was the general denial of the facts stated in the amended complaint, and

Third. A denial that the alleged warrants numbering from one to forty, inclusive, were ever issued or directed to be issued by the board of supervisors of that county or by its authority; denied that the board of supervisors of Apache county ever ordered the issuance of the warrants or either of them. In other words, it was a general plea of *non isfactum*, concluding with the declaration that the said pretended warrants and each of them had been falsely made and forged, and that each was a forgery, and was falsely made and forged with the fraudulent intent to defraud the county of Apache.

The next issue relied upon was a denial of fact, that the said county on the 10th day of July, 1884, or at any other time, was indebted to Julius Becker in any sum; and denied that Becker ever filed any such account with the board; denied the allowance of any such a claim or account, and the issuance of a warrant thereon; and the concluding answer was a special plea of limitation.

This answer was at the trial duly verified, by permission of the Court, as follows:

TERRITORY OF ARIZONA, } ss.
County of Yavapai, }

N. Gonzales, being duly sworn, says: That he is the clerk of the board of supervisors of the county of Apache, in the Territory of Arizona, and the custodian of the records of the said Board. That he has heard read the above and foregoing answer of the county of Apache, defendant in the above and foregoing action, and that the facts therein stated as defences to the various causes of action declared on, are true: and the warrants sued on are not genuine.

N. Gonzales.

Subscribed and sworn to before me this, the 6th day of May, 1896.

[SEAL] J. E. WALKER, Clerk.

(Folio 251, Transcript.)

This was the state of the issues at the time of trial, and from which appears that the plaintiff had declared:

First. The filing of an account before the board of supervisors.

Second. The consideration of that account by the board.

Third. The auditing of the same.

Fourth. The order for the warrant thereon.

Fifth. The issuance of warrant by its order.

All of which were generally and specially denied and the answer denying them sworn to.

Upon these issues the cause was tried and submitted to the Court for determination, the plaintiff introducing the disputed warrants and no other evidence whatever, (see pages 169, 170, Transcript,) which was by the Court taken under advisement until the 20th day of March, 1897, when on that day the Court rendered judgment in favor of plaintiff and against defendant for the amount heretofore named, upon the following findings:

First. The Court found that the plaintiff, in open court, admitted that the figures on the following described warrants, indicating the amount thereof as well as the writing on the face of the warrants, giving the amount thereof, had been altered and changed, and therein set forth the warrants, eleven in number.

Second. That all of the warrants sued on in the said amended complaint, except those admitted to be invalid and forged, were valid, subsisting, and legal claims against the said county, and that plaintiff, according to the prayer of her complaint, was entitled to recover from defendant the face value of each of the warrants, with ten per cent interest thereon until paid from the date of their presentation to the county treasurer and payment refused.

The Court further found that each of the said warrants was presented to the treasurer, and payment thereon for lack of funds was refused.

(See folios 257 and 258, pages 154 and 155, Transcript.)

These were the only expressed findings named in the judgment. There was no expressed finding on any of the other issues joined by the pleadings, but judgment rendered specially for each of the warrants and for all of them, naming them separately, as will appear by reference to the judgment set out from folios 256 to 264 on pages 154-158 of the Transcript, all inclusive.

Thereupon, on the 22d day of March, 1897, the defendant county filed her motion for a new trial, on the following grounds:

1. Because the Court erred in finding against the defendant's plea of the statute of limitations herein pleaded, and in not sustaining the same, and in rendering judgment against defendant over the said plea of statute of limitations pleaded in the defendant's answer against the plaintiff's various causes of action.

2. Because the Court erred in not sustaining defendant's plea of limitation, set up against plaintiff's various causes of action, set up in her said complaint in each of the same.

3. Because the Court erred in finding that the said warrants sued on in plaintiff's complaint and each of the same on which judgment in this action was rendered, was legally issued.

4. Because the Court erred in finding against the plea of defendant "that the warrants and each of them was forged and not of any binding effect against defendant."

5. Because the findings of the Court and the judgment in this action rendered, are contrary to the evidence in the cause, is against the evidence as shown by the record, and the face of the warrants sued on, and is contrary to the law of the cause; and

6. Because the Court erred in over-ruling defendant's motion for a new trial.

(See folios 272-273, page 127, Transcript.)

This motion for a new trial as thus made was general assignments for the consideration of all legal questions arising under the issues as joined by authority of Section 5 of Act No. 71, at page 128, passed by the Legislative Assembly of the Territory, March 18th, 1897, which provides as follows: All rulings made by the Court below in opposition to the plaintiff in error or appellant shall be taken as excepted to by the party appealing or suing out the writ of error, and when assigned as error in the brief, shall be reviewed in the Supreme Court without any bill of exceptions or other assignments of error, except as herein provided.

These errors heretofore named, were assigned in the brief, which was proceeded by the assignment of errors filed in the District Court, and for the consideration of the Supreme Court, on October 26th, 1897, which were as follows:

ASSIGNMENT OF ERRORS.

First. Because the Court erred in over-ruling defendant's special demurrer interposed in the action against plaintiff's complaint, for the reasons:

1. Because each and every count in said complaint showed on its face, and so did the exhibit on which the declaration and each of the same and every one of them, was based, that the said cause and each of the said causes and each of the said warrants declared on was and were barred by the statute of limitation long before the bringing of said action.

2. Because the said complaint, in each and every cause therein stated, and the warrant and each of them declared on, all show on their face, and each of them did, that the same and all thereof was and were barred by the statute of limitations, long before the bringing of said action; that the said complaint filed in each and every of the said counts

therein made and set up, showed no reason why the statute of limitations should be avoided.

Second. Because the Court erred in not sustaining defendant's special plea of limitation, set up against plaintiff's several causes of action in her complaint made, for the following reasons:

1. Because the several causes of action and the several warrants on which they and each of them were based, showed on their face that they were barred by the statute of limitations long before bringing this suit

2. Because plaintiff states no reason for the avoidance of the statute bar.

3. Because the brief and the record showed that the defendant directed the resistance of payment of the said warrants in the year 1885, and more than five years before the bringing of this action, and hence, the absolute bar of the same by the statute of limitations.

Third. Because the Court erred in finding that each of the said warrants, for which judgment was rendered, were legally issued, for the reasons:

1. That they and each of them showed on their face that they were not, but were forgeries.

2. Because the defendant's answer was made and was verified by the oath of the clerk of the board of supervisors of the county of Apache, and stated under oath that the said warrants for which judgment was rendered, and each of the same, was and were forged, that they were not genuine, and were not issued by authority of the said county of Apache; and therefore and thereby imposed on plaintiff the burden of proving that said warrants and each of the same were genuine, and were issued by the authority of the said county, before plaintiff was entitled to judgment thereon, all of which plaintiff failed to do, and on which, and over the objections of defendant, and over the said verity of the said answer and without proof, the Court rendered said judgment,—hence, grave error and violation of the statute.

Fourth. Because the said judgment is contrary to the pleadings and the evidence in the case, and is not borne out by the same.

Fifth. Because the said judgment is contrary to the law of the case and is not borne out by the same.

(See folios 352, 353 and 354, found at pages 220 and 221, Transcript.)

Upon this record and upon these assignments of error thus made, on January 26th, 1898, this case was heard by the Supreme Court—was argued orally and on brief in its presence on appeal, and by it taken under advisement (see folio 356, Transcript), and, on April 16th, 1898, the Supreme Court, in session, rendered the following judgment:

"This cause having been heretofore submitted, and by the Court taken under consideration, and the Court having considered the same and being fully advised in the premises, it is ordered that the judgment of the District Court herein be, and the same is, hereby affirmed." (Folio 357, Transcript.)

And therewith the opinion was handed down, which is found beginning with folio 358, at page 223, and concluding with folio 373, at page 231, all inclusive, in the Transcript.

In that opinion, among many other things that was said, the Court there declared against the plea of limitation in all of its forms, following the Alabama and Nebraska rule provided for in those States by statutes, which is not so here; and, also, as to the fact of the verified answer, the Court said: "That the weight of authority is decidedly that the extent and effect of a verification is to enable defendant to disprove by affirmative evidence the execution of the warrants, or the regularity, or the legality of the proceedings on which their issue was based, and that the *prima facie* case already made by the presentation of the warrants, duly executed and in proper form, stand until it is destroyed."

Apprehending that the Court had overlooked the force of the assignment of errors made for its consideration,

and the legal propositions brought out by them, on April 30th, 1898, the defendant county filed its motion in that Court for re-hearing, and set up the following reasons:

First. Because it seems apparent from the decision handed down by the Court, that the Court in passing on the points raised by the exceptions and statement of errors of fact and law pointed out in the said exceptions and brief, overlooked the force of the law brought out by the verification of defendant's answer, that is:

1. That the effect of the statute and the intent of it would be to require the plaintiff, relying on any instrument in writing, the genuineness of which is denied under oath, to establish the genuineness of such instrument before the same could be admitted in evidence for any purpose whatever. In other words, that the intent and effect of such verification was to throw the burden of proof on plaintiff, both as to the instrument and cause, as was the case at common law.

2. It seems apparent that the Court overlooked the fact in the record that the declaration on the warrants sued on was based on an alleged filing of an account of demands of various individuals, as the authority for the issuance of the various warrants sued on, and before the issuance of the said warrants, and which declaration was denied under oath, and not met with any evidence whatever; and hence the rule, that the denial of the facts stated in the declaration or complaint, being denied under oath, cast the burden of proving every allegation made in the complaint on the plaintiff, was also overlooked.

3. Because the holding in the opinion handed down by the Court in this case, that the verification of the answer by appellant, does not cast the burden of proof on plaintiff, but only gives to defendant such standing in Court as to authorize her to prove her defense, is a reversal and overthrow of the rule in such instances, seems to be apparent error, and which seems to have been overlooked by the Court in its deliberations in this case.

Second. Because in the opinion handed down by the Court on the point of limitation, the Court overlooked

the fact proven, that the proof of the case showed that the warrants in 1883 and 1885 had been paid before issue in this case in 1888 arose; and hence, these warrants, if genuine, were barred as a matter of fact.

(See folios 374–376, inclusive, pages 232 and 233, Transcript.)

This motion was by the Court taken under advisement until June 11th, 1898, and on that day was denied. (See folio 376, Transcript.)

And on the same day, to wit: June 11th, 1898, the Supreme Court of Arizona, through its Chief Justice, signed and filed the following statement of facts in said cause, (we omit the caption of the cause) which are as follows:

"Statement of facts of the Supreme Court of the Territory of Arizona, sitting as a Court of Appeal from the District Court of the Second Judicial District of the Territory of Arizona, in and for the County of Maricopa, where the case was tried by a jury and judgment rendered against the ap pellant for $14,352.13, appellant appealed."

1. The Supreme Court takes the facts as found by the District Court on the trial in that Court and as shown by the record, and makes them a statement of facts in this case.

2. This Court finds that the District Court did not commit error in finding against the plea of limitation set up by appellant.

3. The Court further finds that the District Court did not commit error in granting and rendering judgment in favor of appellee on the warrants sued on and against appellant, notwithstanding the verified answer of appellant.

4. The Supreme Court further finds that the District Court did not commit error in refusing to render judgment for appellant on the verified answer of appellant, notwithstanding appellee did not introduce any evidence to establish the genuineness of said warrants, for which appellee asked judgment, because—

5. The Court finds that the warrants were a verity of themselves, and the verified answer only put appellant in position in Court to prove the facts set up in her answer, and did not put appellee on proof of their genuineness; hence, the Supreme Court finds, as a conclusion, that the judgment of the District Court should be affirmed. Judgment of affirmation and confirmation was therefore ordered and directed this June 11th, 1898.

WEBSTER STREET,
Chief Justice Supreme Court of the Territory of Arizona.

(See page 235, folio 380, Transcript.)

Now, this is a complete statement of the record; that is, a complete statement of the important features and points of the record from the bringing of the action until the final findings of fact by the Supreme Court of the Territory of Arizona, from which judgment we appeal to this Court.

This statement is made in the order of time in which the various acts, steps, proceedings and adjudications were had, omitting all dilatory and superfluous matter.

So that now, on this appeal, it being an appeal from the judgment of the Supreme Court of the Territory of Arizona, we assign the following errors as having been committed by said Supreme Court in its judgment sustaining the judgment of the Court below.

FIRST.

The Court erred in sustaining the judgment of the Court below in overruling appellant's (defendant below) demurrer, because—

Every count in the complaint, and every warrant sued on showed on its face that more than five years had elapsed from the date of the alleged issuance of said warrants and presentation to the county treasurer, to the date of the action, and show no reason for the avoidance of the statute; hence the judgment is erroneous under rules of General law.

SECOND.

The judgment of the Supreme Court of the Territory is erroneous for not sustaining defendant's special plea of limitation under the pleadings and proof in the case, because—

1. Plaintiff alleged in the original complaint that the treasurer of defendant county, after notice of funds being on hand, refused to pay the warrants on demand; and, that in the said amended complaint, alleged that defendant county, AT ALL TIMES, had resisted payment of these warrants, "by refusing to levy taxes," "refusing to set apart funds," "by funding," or otherwise providing for payment.

2. Because the proof—uncontradicted proof—in the case showed that said county had resisted payment of said warrants by order on public records of said county, and standing public notice in county treasurer's office from March 19th, 1885, thereby corroborating the said plea, that payment was AT ALL TIMES resisted, etc., all of which showed the lapse of more than five years from date of resistance to date of bringing suit.

THIRD.

The judgment of the said Supreme Court is erroneous for sustaining the judgment of the Court below, and in not rendering judment for defendant county on the pleadings and proof, because:

1. The answer was verified by the oath of the proper officer, as provided by law, denying the account on which the warrants rested.

2. Denying that such was either considered, or audited or allowed.

3. Denying the order for the warrant sued on.

4 Denying the issuance of any such warrant by defendant county, or by its authority.

5. Denying the genuineness of the same, and

6. Declared each and all forgeries,—thereby requiring the genuineness of said warrants to be established before

they could become evidence upon which any judgment could be legally founded on them, and on which plaintiff furnished no evidence whatever.

FOURTH.

The Supreme Court committed grave error in finding and adjudging, in the face of a verified answer—

1. That the said warrants were verity of themselves.

2. That the verified answer only put appellant in position in Court to prove the facts set up in her answer, and did not put appellee on proof of their genuineness.

FIFTH.

The Supreme Court erred in not sustaining, and directing the Court below to sustain defendant's allegation of forgery on her sworn plea, and on the evidence in the cause sustaining it.

This brings us to a review of the authorities to sustain these errors, first of which is the Statute of the Territory, which provides: Revised Statutes, paragraph 2314, section 18, re-enacted in an amendatory statute, passed by the Legislative Assembly of 1891, page 74, (53 of new publication,) section 1, as follows: "Actions for debt, where the debt is evidenced by or founded upon any contract in writing executed within this Territory, shall be commenced and prosecuted within five years after cause of action shall have accrued, and not afterwards."

This language is plain. The action shall be commenced after the cause accrues within five years. It can't be afterwards.

The question then is, when does the action accrue? The statute is silent upon that point. It doesn't say. Then we are left to general law, and to decisions bearing upon it, as to the time when such an action does accrue.

It is elementary that the statutes of limitation such as those, statutes of repose, begin to run against the written obligation to pay, from the time that the right of payment accrues to the payee—never later than the time when the payee has the right to demand payment of the obligation held.

Now, we say this is elementary, and unless changed by some statutory provision, which we do not have, the statute certainly begins to run from that date.

To sustain this fact, we submit the following authorities:

Emery vs. Day, 1 Compton, M. & R. ex 245.

Perry vs. Parish of Vermillion, 21 Louisiana, 645.

Palmer vs. Palmer, 36 Michigan, 470.

Crawford County vs. Wilson, 7 Arkansas, 214.

Crudup vs. Ramsay, 15 South West, 458.

King vs. Frankford, 43 Pacific (Kansas), 983.

Carpenter vs. Township of Union, 12 North West (Iowa), 290, and cases there cited.

Goldman vs. Conway County, 10 Federal, 888.

Cross vs. Bank of Commerce of Grant County (N. M.), 54 Pacific, 880.

Thompson vs. Searcy County, 57 Federal, 1036.

Wilson vs. Knox County (Missouri), 28 South West, 896, and cases there cited.

COMMENT.

These cases, most of which are for actions on county warrants, in which Limitation has been pleaded, and by the authority of statute providing for a limitation of actions, within a certain period named, within which action shall be brought and not afterwards, and in all of which they have held universally that the cause of action accrued from the date of the issuance of the warrant—and always never later than from the time when the warrants were presented to the county treasurer, and by him endorsed, "not paid for want of funds," as was the case at bar, unless some other time for the accruing of the action should be fixed by statute—and which is not the case at bar.

In the case of

Aime vs. Dubuque, 98 U. S., 470,

it being an action on a coupon for interest on a bond, from which the coupon had never been severed, and against which limitation was pleaded, this Court held, as general law and following the ruling of the State of Iowa, of course, that, notwithstanding the said coupon had not been severed from the bond, the fact that it became due and payable at a certain period, in other words, that it matured then, and that payment of which the holder had a right to demand at date of its maturity, the statute begins to run from that date as a matter of general law.

In this same decision the same principle was applied to county warrants, fixing the time when the statute begins to run at the date of issuance and presentation for payment. In other words, that they matured never later than demand and refusal to pay.

In King Iron Bridge & Manuf'g Co. vs. County of Otoe, 27 Federal, 800, decided by Judge Dunby, in which opinion Judge Brewer concurred, the general law on such statutes pertaining to county warrants, and following the fixed time by general law, when the statute begins to run against them, declared the rule to be that, "when presented to the county treasurer for payment and payment refused, the right to sue becomes complete and absolute."

We apprehend that there can be no disputing the fact that this is the rule, that is, the general rule, fixed by general law, followed by this Court and by nearly all the State Courts, the rule that has been followed ever since the passage of the act of limitation in 1623, in the 21st year of the reign of James I., fixing the time for limitation of actions and starting the statute at the date that the cause accrued, and not after.

True, in this last case cited, in the 124 U. S., 514, the Supreme Court of the United States, by force of the 34th section of the judiciary act, etc., finding that the case had been settled on demurrer in the Court below, and that the Supreme Court of the State of Nebraska, by construction of some other feature of its statute, connecting with the statute of limitation proper, had held that cause of action accrues from the time that sufficient time elapses after the

issuance of the warrant for the county to raise the means to pay it, and not from its issuance or presentation to the treasurer, the decision of the State Court being a rule of decision in the construction of its own statute, and the Court feeling bound by it in that State, wherein its own statute was involved, reversed this decision, holding that it couldn't say, under that rule, that on demurrer, sufficient time had elapsed.

This, however, was but the enunciation of the Nebraska doctrine, and following the rule of decision of the construction of the Nebraska statute by its own Court, and nothing else. It was not a decision as to the rule of general law, fixed by the decision of nearly all the Courts and this Court as well, and, therefore, not a decision binding on the Federal Courts or Courts of the Territory. In other words, it is general law, as fixed by this Court and by nearly all the other Courts, that the statute begins to run, because the cause of action accrued from the time at latest when the warrant is presented and payment refused, is the general rule by which the Courts of this Territory are bound, because we have no statute fixing any other time.

It cannot be contended that because this Court follows the rule of construction of a State statute by the State Court, that it will do the same thing in a Territory. Territorial Courts are inferior Courts to this Court, and are as much answerable for misconstruction of its own statute as for the comission of any other error, as much so as any inferior Court is to any other appellate tribunal.

But, in so far as the Nebraska case is concerned, the Supreme Court of Nebraska itself has virtually overruled it.

In the case of

Arapahoe Village vs. Albee, 24 Nebraska, 242,

the Court refers to Brewer vs. Otoe County, and after arguing around it in principal, squarely overrules it and fixes the rule to be: In so far as the statute of limitations is concerned, it applies to municipal corporations just the same as individuals, the Courts say: "The law favors

diligence, and compels a party holding a warrant of a municipal corporation to take the necessary steps to enforce the payment of the same within the period fixed by statute, or be barred."

"If this were not so, warrants might be fraudulently issued by the authorities of a municipal corporation, and held for ten, fifteen, or twenty years, or more, and then presented for payment when the evidence of their fraudulent character had become obscure or inaccessible." "In our view, the ends of justice will be better subserved by placing individuals and municipal corporations on the same plane and governed by the same law of limitations." "It follows that all the causes of action were barred when the action was brought."

From this decision it will be seen that this was an action upon the warrants of a school district, which had been duly issued, as had the county warrants in the Otoe County case; had been presented to the treasurer, and there endorsed "not paid for want of funds," and for that reason payment was refused, just as was the case in the Otoe County case; and soon after the statute bar, action was brought, as was done in the Otoe County case, and the Court there held that the case was barred, as was not done in the Otoe County case; and, in this 24th Nebraska case, the Court making emphatic declarations of law, as it did, the language of which has just heretofore been repeated, must certainly effect a complete overthrow of the principles set forth in the Otoe County case, followed by this Court in the 124th U. S., heretofore mentioned, and therefore can't possibly stand in the way of the appeal here.

This same case is found in the 8th American State Reports, at page 202, and note at page 206, referring to a great many authorities sustaining this last view expressed, following the rule laid down by Wood on Limitations, section 53, where he states:

"The statute runs for or against towns and cities, and also for or against counties, in the same manner as it does for and against individuals." See also 2, Dillon on Municipal Corporations, section 668.

We refer to that note at page 206 in this last decision, and the authorities there cited.

This much has been said and these authorities have been presented to sustain our contention in our first assignment; that is, that plaintiff's causes of action were barred by limitation, as shown upon their face, and the demurrer therefor should have been sustained. But we are not left to this alone on limitation even.

Our second assignment is: That our plea of limitation should have been sustained on the facts and admissions in the cause.

We apprehend that it will not be disputed—indeed it never has—that limitation always and under all circumstances begins to run from the time the demand is disputed, from the date that its merit is denied, and refusal to pay is based upon the disputed merit of the demand presented. This is the rule everywhere. Therefore, if not under the pleading, under the proof and admissions the plea should have been sustained and the cause dismissed. Let us see:

First. The sixth clause in every count, applying to every warrant sued on, declared affirmatively that the county had at all times refused to pay the demand. That the defendant county had refused to levy taxes, to set apart funds, to redeem, to fund, or to in any other way provide for the payment of the demand. This is a general declaration of resentment of payment confined to no particular cause. Then the rule that the construction shall be taken most strongly against the pleader. We apprehend that it can't be disputed that, from this plea, the declaration of the county's refusal to pay or provide payment must be taken to fairly mean that the resentment includes the dispute of the merit of demand, and therefore starts the statute from that date.

Second. The proof on this plea shows that the board of supervisors of the defendant county, on the 19th day of March, 1885, then being in session, because of the forgery of warrants of 1884, by a general order upon its record, ordered the prosecution of the forgers, one of the

identical men charged being the clerk of the board, Charles Kinnear, whose name appears to every warrant sued on, and also directed that these warrants be not paid and that the District Attorney notify the treasurer not to pay any of them. (See folios 290, 291 and 292, in Transcript.)

Third. At the trial it is also shown by Potter that from that date there was a standing notice in the treasurer's office not to pay these warrants. (Folio 300, Transcript.)

Fourth. The records of Apache County show that all of the warrants sued on were shown to be disputed by the record. (Page 179, Transcript.)

Fifth. At the trial the plaintiff admitted that the order of resentment, ordering the treasurer not to pay warrants of 1884, because of forgery, which order was made the 19th of March, 1885, had reference to the particular warrants here sued on. (Transcript, folios 305 and 306, inclusive, found at page 182.)

This is an emphatic admission that all of the warrants sued on here, on March 19th, 1885, were resented and payment refused, because they were forged instruments. Most certainly, then, this started the statute, if nothing else ever did. The authorities already cited are clear upon this point, and, indeed, the rule is so elementary that to cite authority would be idle.

Then, the statute beginning to run on that date, March 19th, 1885, certainly barred this action nearly two years before it was brought.

One other thing in this connection:

It will be noticed that after the statute was pleaded there was no replication made to the plea of limitation, nor was there any statement made in the complaint, nor in any count of it, that would take plaintiff's case out of the statute, nor did she attempt to do it. Therefore, her effort at avoidance of the statute must necessarily fail, because the general rule is:

"If the plaintiff would bring herself within any of the exceptions mentioned in the statute, if it has any, she

must specially reply accordingly where the statute is pleaded, and if she omit so to do, she cannot avail herself of it on trial even." See Wait's Actions and Defences, Vol. 7, 309, citing:

Witherup vs. Hill, 9 Serg. and R. (Penn.) 11.

Piggott vs. Rush, 4 A. D. and E. L. 912.

Angell on Limitation, Section 292.

VERIFICATION.

This brings us to the consideration of our third and fourth assignments of errors, or reasons given as to why the Supreme Court of Arizona committed error in confirming the judgment of the Court below, and in not directing judgment on the pleadings and state of the record, as demanded by defendant county in the Court below.

From the statement of this case as already made, and the record, it will be seen that the plaintiff, Barth, introduced the warrant declared on as evidence for the judgment obtained, and nothing else whatever. The answer was verified and placed the genuineness of every single warrant declared on in issue. In other words, a plea of *non est factum* was made, and, under the Arizona statute requiring answer denying the execution of such instruments, or the execution of them by its authority, to be under oath, by permission of the Court, at the trial, that was complied with, and plaintiff Barth informed that the evidence of their genuineness, or any other evidence pertaining to the cause, they might introduce, which they refused to do.

Evidence was introduced, however, by the defendant county, and judgment asked, which was refused. The answer being verified denying the execution of the warrants or their issuance by the authority of the county; denying that any account upon which the warrants were based ever existed; denying the consideration of such account by the Board of Supervisors, or that the same was ever admitted or allowed, most certainly placed the burden of proof upon the plaintiff, relying upon the warrants

to establish their genuineness before they could be received for any purpose.

Therefore, the Court erred in its findings and in rendering judgment thereon.

The Court also erred in finding that the warrants were verity of themselves.

It also erred in finding that the verified answer only put appellant in position in Court to prove the facts set up up in her answer, and did not put appellee on proof of their genuineness.

This, we say, is positive error and contrary to all of the authority on the point, and as evidence of it, to the authorities we go.

The first authority is the statute, which is paragraph 735, Revised Statutes of Arizona, making the following provision:

"Any answer setting up any of the following matters, unless the truth of the pleadings appear of record, shall be verified by affidavit: * * * * *

8. "A denial of the execution by himself or by his authority, of any instrument in writing upon which any pleading is founded, in whole or in part, and charged to have been executed by him or by his authority, and not alleged to be lost or destroyed."

By authority of this statute this answer was verified, putting in issue the genuineness of these warrants for which they demanded judgment.

Under that statute, that the defense was entitled to judgment unless the genuineness of the warrants should be established before they were introduced or received as evidence, see the following authorities:

Encyclopedia of Pleading and Practice, Vol. 14, page 590, laying down the following rule:

First. "At common law the denial of the execution of the instrument by plaintiff by any appropriate plea, usually the general issue, need not be under oath in order

to cast upon the plaintiff the burden of proving the execution of the instrument." And there a vast number of authorities are cited, showing that the plea itself casts the burden on the plaintiff to establish the issue tendered.

Second. "In the United States statutes have been quite generally enacted (and ours is one of them) varying somewhat in their provisions in the different States, curtailing the right of the defendant to thus impose upon the plaintiff the necessity of proving the execution of the instrument, and requiring a sworn plea or answer to be put in by the defendant." To that is subjoined a note giving the decisions of the various States, and they are numerous, discussing this rule in its various phases, and in which they are all agreed that these statutes prescribed a rule of evidence, but nowhere change the general rule, that when issue is joined the onus remains with the plaintiff, requiring him to establish by proof the allegation he makes and the genuineness of the instrument that he declares on.

These statutes were enacted for the beneficent purpose of preventing false issues.

We refer to a few cases on this point:

Horn vs. Water Co., 13 California, 62.

Corcoran vs. Doll, et al, 32 California, 83.

Waldrip vs. Black, 34 California, 409.

Assig vs. Pearson, 9 Colorado, 587, 13 Pacific, 719.

Parkinson vs. Bodaker, 10 Colorado, 503, 15 Pacific, 806.

Lathrop vs. Roberts, 16 Colorado, 604, 27 Pacific, 698.

Sheppard vs. Royce, 71 Illinois Appeals, 321.

Pate vs. National Bank, 63 Indiana, 254.

Wimberly vs. Dallas, 52 Alabama, 196.

Walker vs. Bentley, 64 Alabama, 92.

All of these cases were brought on written instruments. Many were denied by answer not verified, and in all such cases the Court held that the instruments were evidence of their execution for no other reason than that the execution was not denied under oath as required by statute.

The question arose in some of them, however, wherein the genuineness of the instrument sued on was raised by the verified answer, and in every instance where such was the case, the Court held that it was error to admit the instrument until its genuineness was established. For instance:

Lathrop vs. Roberts. 16 Colorado, 604,

was an action on a promissory note. The execution of it was denied and the answer verified.

There the Court held that "where the execution of a promissory note is denied by the answer under oath, it was error to admit the note until proof of its execution was given."

In the case of

Assig vs. Pearson, 9 Colorado, 587,

the plaintiff, Pearson, recovered judgment before a Justice of the Peace on two checks, for $50 each, purporting to have been signed by Assig. On appeal, Assig asked leave to file his affidavit in the case, denying the execution of the checks, (which he had not done in the Court below) and alleging they were forgeries, just as was the state of this case at the trial, and the Court refused to receive or consider it on the ground that it was not filed at the trial. That wasn't the case here; the Court did receive it and it was filed at the trial in this case.

In that case it was held that the affidavit denying the signature should have been received as raising the issue, and not only that, but "AS PUTTING THE PLAINTIFF TO PROOF OF THE SIGNATURE OF THE DEFENDANT." The judgment was therefore reversed.

This is a much stronger case for the position that we contend than that one was or could be.

In the case of

Sheppard vs. Royce, 71 Illinois Appeals, 321,

it was a case where the plaintiff insisted that the defendant's plea of *non est factum* and the forgery of the instrument declared on, having contained the charge of the crime of forgery, made it necessary for the defendant to prove that the signature was forged; but the Court held that the only effect of the plea was to cast upon the plaintiff the burden of proving the execution of the instrument, and that he had to do by a preponderance of the evidence.

This case applies to the case at bar squarely, and a number of others referred to therein do the same thing.

The case of

Pate vs. Aurora National Bank, 63 Indiana, 254,

was a case where the instrument sued on was denied under oath, and it was there held that the plaintiff had to prove its genuineness by a preponderance of the evidence, and so it is held everywhere.

It is also held that the rule applies where set-off is pleaded in the answer, and the set-off is based on such contracts in writing as come within the statute; that the replication must deny it under oath in order to impose upon the defendant the burden of proving the execution of the instrument.

Walker vs. Bentley, 64 Alabama, 92.

Simmons vs. Simmons, 33 Gratt, 451.

Indeed this is text law in this country. See Encyclopedia of Pleading and Practice, Vol. 14, page 596.

True, the learned Judge, speaking for the Supreme Court of Arizona in this case, in the opinion, states:

"The weight of authority is decidedly that the effect and extent of the verification is to enable defendant to *disprove by affirmative evidence* the execution of the warrants, or the regularity or legality of the proceedings on which their issue was based, etc."

We have looked in vain through all the libraries to which we have access, and they are many, without finding

a single case deciding any such principle, or finding that such is the law.

Hence, the finding and the judgment based upon it, that "the verified answer only put appellant in position in Court to prove the fact set up in her answer, and did not put appellee on proof of their genuineness," is most certainly the gravest of error.

In

Mobile, etc., R. R. Co. vs. Gilmer (Alabama), 5 Southern Rep., 139,

it being an action for damages for breach of covenant on written contract that had been duly denied, but without verity, the Supreme Court of Alabama said, among other things, referring to the issue:

"Under this state of the pleadings the Circuit Court properly ruled that in the absence of a sworn plea of *non est factum*, putting in issue the execution of the paper, it was admissible in evidence without proof of its execution."

Of course, the converse is true. If the plea of *non est factum* had been sworn to, the paper would not have been admissible as evidence without preliminary proof of its genuineness.

In this connection another principle is stated:

"The statutes, being general in their terms, apply to all negotiable instruments, without regard to the place where, or the persons by whom, they purport to have been executed."

Encyclopedia of Pleading and Practice, Vol. 14, page 595.

In

Clark vs. Polk County, 19 Iowa, 248,

it is held that the statute applies to instruments executed by municipal corporations.

In

Clark vs. Des Moines, 19 Iowa, 199,

the Court held that this statute applied to city warrants in the nature of notes.

Indeed, it is universally held that county warrants are within the requirements of the statute, which, we presume, will not be denied in this case.

ON THE PROOF.

The plea of forgery should have been sustained for the following reasons:

First. On March 19th, 1885, the record shows that the defendant county resisted the payment of the warrants on grounds of forgery.

Second. The record shows that Sol Barth, one of the principal handlers of the warrants declared on, and Charles Kinnear, the clerk of the board of supervisors, who attested and signed them all, were indicted for the alleged forgery in 1886, and additional counsel employed to aid in the prosecution.

Third. That the alleged warrants sued on, declared to have been issued in 1884, when Charles Kinnear was clerk of the board of supervisors and custodian of the records bearing evidence, and the only records which could, of the issuance of all legal warrants of the county for that year, were signed by this same Kinnear, who was indicted for their forgery.

Fourth. The proof plainly showed, and profert of the record exhibited the undeniable evidence, that all of the record which should have contained the proceedings of the board of supervisors and all of its actions with reference to these warrants, alleged to have been issued, if they ever were issued, and now sued on, had been cut away and destroyed and not a line of it left to show official action, or the want of it, of the board of supervisors for the year 1884, covering the time of the alleged issuance of these warrants, and also of the time of their alleged forgery, for which the said clerk, Charles Kinnear, and Sol Barth were indicted.

Fifth. That this mutilation, obliteration and destruction of the record was effected during the time they were

in the custody and should have been under the key of Charles Kinnear, and during the time the record was so destroyed, and he was indicted for participating in the forgery.

Sixth. At the trial, plaintiff confessed that more than 25 per cent of these warrants in number, amounting to about $1,500.00, were forgeries, and for which they could not afford to ask judgment, and they, too, were signed and attested by Charles Kinnear, and thus they admitted that there was existing forgery in the issuance of warrants sued on, and that there was criminal indictments against at least one of the parties who signed them, to wit: Charles Kinnear.

It showed also the strong probability of their all having been forged, because they were contained in the record of 1884, if properly issued, and not contained if improperly; and the whole record was in his charge, and the whole record thus in his charge was destroyed. What for? There can be but one reasonable answer, and that is: To destroy evidence of guilt and prevent his landing in the penitentiary where he belonged.

If there was no forgery except the eleven confessed, why does the record which should have contained the whole forty be destroyed to destroy evidence of the guilt as to the eleven only?

We submit, therefore, that on the merit, this case should have failed of ever having reached judgment against the defendant county.

Upon the record of the errors assigned, and the numerous authorities on every point sustaining each assignment, we implicitly rely for judgment reversing the case and remanding it back to the Supreme Court of the Territory of Arizona, with directions that it order the dismissal of the complaint and the rendition of judgment for the defendant county.

All of which is respectfully submitted.

C. F. Wilson

Attorneys for Appellant.

As only reply to dept. in error's brief, case of Stringfellow vs. Cain, 99 U. S. 610, is cited.

No. 181.

Brief of Reuben Hatch for Appellee

Office Supreme Court U. S.
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Clerk

BRIEF FOR APPELLEE.

Filed Feb. 1, 1900.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1899.

No. 181.

THE COUNTY OF APACHE, APPELLANT,

vs.

JULIA BARTH, EXECUTRIX OF JACOB BARTH, DECEASED.

APPEAL FROM THE SUPREME COURT OF THE TERRITORY OF ARIZONA.

REUBEN HATCH,
Attorney for Appellee.

(17,244.)

SUPREME COURT OF THE UNITED STATES.

THE COUNTY OF APACHE, Appellant, vs. JULIA BARTH, Executrix of JACOB BARTH, Deceased.	October Term, 1899. No. 181 (17244).

BRIEF FOR DEFENDANT.

It is claimed, in support of the judgment, on behalf of the appellee:

First. That the errors complained of cannot be reviewed by this Court for the reason that the record contains no "statement of the facts of the case in the nature of a special verdict," as provided by the Act of Congress of April 7, 1874, ch. 80, 18 Stat. 27, and no bill of exceptions duly settled and signed by the judge who tried the case.

Second. That, even if the Court should feel authorized to examine into the proceedings of the trial in the District Court, as disclosed by this record, it would be found that only one ruling on the admission or rejection of evidence adverse to the appellant was made and that was in the admission of the warrants, but that ruling is not subject to review for the reasons (a) that no exception was taken thereto; (b) that there was no assignment of error in the Supreme Court of Arizona on any rulings on the admissi-

bility of evidence, therefore no such rulings were passed upon by that court. Moreover the grounds of objection to the admission of the warrants in evidence stated in the record are untenable.

Third. That the findings of fact are general and support the judgment and, there being no question of the admissibility of evidence before the court, that therefore, aside from the question of whether or not the question of the statute of limitations having run against the warrants is raised by the demurrer, the record presents no question for the determination of this court.

Fourth. That the question as to whether or not the statute of limitations had run is not presented on demurrer for the reasons (a) that the appellant waived the demurrer by going to trial on the merits on the issue joined upon the complaint and answer instead of submitting the question on demurrer; (b) that the District Court did not dispose of the demurrer and therefore there is no judgment of the lower courts on the demurrer before this court for review; (c) if the District Court had rendered judgment overruling the demurrer, no appeal would lie to this court therefrom because such judgment would not be final.

Fifth. That, even if the question as to whether or not the warrants were barred by the statute of limitations was before the court on the demurrer, it could not be determined for the reason that the statute did not begin to run until there was money "set apart," in the treasury "properly applicable" to their payment in the order of their presentation, or until sufficient time had elapsed in which to provide the money in the mode pointed out by statute, or until the county repudiated the warrants; and the time when either one of these conditions began to exist does not appear on the face of the complaint, except that it does appear that the warrants were repudi-

ated in 1888, less than five years before the suit was begun.

First. The errors complained of cannot be reviewed by this court for the reason that the record contains no "statement of the facts of the case in the nature of a special verdict," as provided by the Act of Congress of April 7, 1874, ch. 80, 18 Stat. 27, and no bill of exceptions duly settled and signed by the judge who tried the case.

The practice on appeals from territorial courts is governed, not by the laws of the territory, but by said Act of Congress and, under that act, the evidence at large is not sent up to this court, but "a statement of the facts of the case in the nature of a special verdict" and rulings on the admission or rejection of evidence can only be brought up for review by a bill of exceptions properly settled and signed by the judge who tried the case.

Gray vs. Howe, 108 U. S., 12.
Bonnifield vs. Price, 154 U. S., 672.
Grayson vs. Lynch, 163 U. S., 468.

If it should be contended that the statute of Arizona governs, we reply that the statute which was in force at the time of the trial in the District Court, required the exceptions to be taken at the time the rulings were made and that they should afterwards be embodied in a bill signed by the judge. That statute was as follows:

"823. (Sec. 175.) Whenever in the progress of a cause either party is dissatisfied with any ruling, opinion or other action of the court, he may except thereto at the time the same is made or announced and at his request time shall be given to embody such exception in a written bill."

Revised Statutes of Arizona of 1887, page 184.

"It shall be the duty of the party taking any bill of exceptions, to reduce the same to writing and present the

same to the judge for allowance during the term, or within ten days after the term, if tried less than ten days before the end of the term, and the time may be further extended twenty additional days, *provided* the order making such extension be made before the expiration of the term of court.

If the same shall be handed to opposite attorney, or lodged with the clerk, it shall be deemed to have been presented to the judge at that date, and the bill of exceptions as finally settled shall be signed by the judge as of that date.

If the bill of exceptions contains all the evidence, no statement of fact shall be necessary."

Session Laws of Arizona, 1893, Act No. 9, page 8.

"829. (Sec. 181.) It shall be the duty of the judge to submit such bill of exceptions to the opposite party or his counsel, if in attendance on the court, and if the same is found to be correct, it shall be signed by the judge without delay and filed with the clerk during the term."

Revised Statutes of Arizona, 1887, page 184.

The trial took place May 6, 1896, although the findings of the District Court were not filed until March 20th, 1897.

Record, pages 154, 167.

March 18, 1897, an act was passed by the Legislative Assembly of Arizona containing the following provisions:

"Sec. 1. Whenever an appeal or writ of error is taken from any District or Circuit Court of this Territory to the Supreme Court of the Territory the appellant or plaintiff in error, as the case may be, may have the testimony taken in the case transcribed and certified by the court reporter and file the same with the papers in the case, and

thereupon it shall become and be a part of the record in such cause."

"Sec. 5. All rulings made by the court below in opposition to the plaintiff in error or appellant shall be taken as excepted to by the party appealing or suing out the writ of error, and when assigned as error in the brief shall be reviewed by the Supreme Court without any bill of exceptions or other assignment of errors as herein provided."

Session Laws of 1897, page 127.

But this act cannot apply to the proceedings on the trial of this case. Under the law as it stood at the time of the trial, exception was required to be taken at the time the ruling was made and embodied in a bill of exceptions during the term or within ten days after the conclusion of the term. If no exception was taken at the time the ruling was made, the opposing counsel and the court would have the right to conclude that the objection was waived and, in the conduct of the case thereafter, would govern themselves accordingly. If the objection was insisted upon, proof might be offered to remove the objection, which would not be offered if it were waived. It would manifestly be unjust to the court and counsel as well as the adverse party to apply such a radical change in the conduct of trials as the new law introduced, to a case tried long before the act was passed, as that would render it impossible to correct errors, which might have been corrected, at the time, if counsel had understood that they were not waived by failure to except.

This construction of the law could work no hardship to the appellant, as its counsel must have known, at the time of the trial, what the law *then* in force was; that it applied to that trial and that it required exceptions to be taken to all adverse rulings.

Besides the statutes of Arizona, in force at the time the act of 1897 above quoted was passed, provided

"2930. (Sec. 3.) No statute or law is retroactive unless expressly so declared therein."

Revised Statutes of Arizona, 1887, page 522.

The act of 1897 is not declared therein to be retroactive.

The affirmance of the judgment of the District Court by the Supreme Court of Arizona, was, in effect, an adoption of the facts found by the District Court.

Neslin vs. Wells, 104 U. S., 428.
Bear Lake Irrigation Co. vs. Garland, 164 U. S., 1, 18.

In addition to this, the Supreme Court expressly adopted the facts as found by the District Court, as the statement of facts in the case.

The statement of the Supreme Court is "The Supreme Court takes the facts as found by the District Court on the trial in that court and as shown by the record and makes them the statement of the facts in this cause."

This is the only statement of facts made by the Supreme Court. All that follows in the statement of the court relates to the law of the case and the conclusions of the court thereon.

Record, page 235.

The findings of the District Court were general and set forth that the case came on for trial on the 6th day of May, 1896, and that evidence was introduced, both oral and documentary, that the court was fully advised of the facts and law in the premises, and "That all the warrants sued on in the said amended complaint, except those heretofore herein described, are valid, subsisting and legal claims against the said defendant, Apache County, and

that the plaintiff, according to the prayer of her said complaint, is entitled to recover of and from the said defendant, the face value of each of said warrants, together with interest thereon at the rate of 10 per cent per annum until paid, from the date on which each of said warrants was presented to the treasurer of said Apache County for payment and payment thereof was refused because of lack of funds;" and further "that each of said warrants was presented to the treasurer of said Apache County and the payment thereof for lack of funds was by said treasurer refused at the dates hereinafter respectively mentioned."

Record, pages 154, 155.

These findings of the District Court do not amount to a "statement of facts in the nature of a special verdict," but, like the general verdict of a jury, they support the judgment and, as there is no ruling of the District Court on the admission or rejection of evidence here for review, there is nothing presented by the record for the determination of this court.

Marshall vs. Burtis, 19 Sup. Ct., 290.
Cohn vs. Daley, Id., 802.
Salina Stock Co. vs. Salina Creek Co., 163 U. S., 109.
Grayson vs. Lynch, Id., 468.
St. Louis vs. Western Union Tel. Co., 166 U. S., 388.

It is needless to multiply cases to show that, since the passage of the act of April 7, 1874, ch. 80, 18 Stat. 27, this court has invariably held that, in appeals from territorial courts, the only questions before the court are whether or not the findings support the judgment and whether or not there was error in the rulings of the lower court on the

admission or rejection of evidence. The weight of evidence or its sufficiency to justify the findings cannot be considered.

Hecht vs. Boughton, 105 U. S., 235.
Idaho & Oregon Land Co. vs. Bradbury, 132 U. S., 509.
Mammoth Min. Co. vs. Salt Lake Machine Co., 151 U. S., 447.
Haws vs. Victoria Copper Min. Co., 160 U. S., 303.
Harrison vs. Perea, 168 U. S., 311, 323.
Halloway vs. Dunham, 170 U. S., 615.

Second. Even if the court should feel authorized to examine into the proceedings of the trial in the District Court, as disclosed by this record, it would be found that only one ruling on the admission or rejection of evidence adverse to appellant was made and that was in the admission of the warrants, but that ruling is not subject to review for the reasons (a) that no exception was taken thereto; (b) that there was no assignment of error in the Supreme Court of Arizona on any rulings on the admissibility of evidence, therefore no such rulings were passed upon by that court. Moreover the grounds of objection to the admission of the warrants in evidence stated in the record are untenable.

Without waiving our objection that there is no record here, from which this court can be informed of the proceedings which took place upon the trial, it may be said that a reference to the reporter's statement shows that the warrants were offered in evidence by counsel for plaintiff in the court below, at the beginning of the trial, before the attempted verification of the answer, and their introduction in evidence was objected to by appellant's counsel on the grounds stated by him as follows:

"We must certainly object to the introduction of these warrants. This offer is evidence of their demand. It bears no public seal, no solemn evidence of the indebtedness; that bears the name of forgery upon its face, and I say we object to it and object to being bound by these papers; they are immaterial, incompetent and improper."

Record, page 169.

This is equivalent to saying that the warrants were incompetent or improper because they bore no seal and the word forgery was written on them. They certainly were not immaterial. By alleging the want of a seal and the fact that the word forgery appeared on the warrants as two grounds of incompetency all other grounds which might have been urged were waived.

Evanston vs. Gunn, 99 U. S., 660.

The record fails to show any exception to the ruling of the court admitting the warrants so that appellant is not in position to urge its objection here.

Record, pages 169, 170.
Hutchins vs. King, 1 Wall., 53.
Lober vs. Cooper, 7 Id., 565.

The act of April 7, 1874, requires exception to be taken to all rulings on the admission or rejection of evidence in order to entitle the party against whom the rulings are made to allege error thereon.

Even if exception had been seasonably taken there was no assignment of error in the Supreme Court of Arizona which authorized that Court to pass upon the question as one of the admission or rejection of evidence. The assignments of error are summarized in the opinion of Mr. Justice Doan, as follows:

"1. The court erred in not sustaining defendant's general plea of limitation.

2. The court erred in not sustaining defendant's special plea of limitation to each of the forty counts set up in plaintiff's amended complaint and in finding against those pleas.

3. The court erred in finding that the warrants sued—and each of them, save those admitted to be forged, was and were legally issued.

4. The court erred in finding against defendant's plea that the said warrants and each of them were forged and of no binding effect on defendant.

5. The court erred in rendering judgment for plaintiff and against the defendant for the reasons that the said judgment was contrary to the evidence in the case, and that it was contrary to the evidence as shown by the record and against the law of the case."

Record, page 224.

This court is confined to a review of the questions presented to the lower courts.

Clark vs. Fredericks, 105 U. S., 4.
Walker vs. Sauvinet, 92 U. S., 90.

But, in any case, the objections were properly overruled. The statute of Arizona, under which the warrants were issued, did not require a seal.

The warrants themselves were *prima facie* evidence of liability and were admissible in evidence without further proof than the production of the warrants properly executed.

Leach vs. Wilson County, 62 Tex., 331.
Rollins vs. Board of Com'rs., 33 C. C. A., 181.
Board of Com'rs. vs. De Lana, 57 Pac., 162.
Johnson vs. Board of Com'rs., 56 Pac., 701.

Even if the warrants were not admissible in evidence without some explanation of the way in which the word "forgery" came to be written on them, that explanation was subsequently furnished by appellant's own testimony and, as the case was being tried before the court without a jury, if the explanation, no matter when it was made in the course of the trial, removed the objection, the court could then properly receive the warrants in evidence.

The testimony referred to is that of the witness N. Gonzales.

Record, pages 171, 174.

From that it appears that on January 9th, 1888 (pages 133, 223 of the record show the correct date, that given on page 174 being a mistake), the warrants were presented by J. Barth, the then holder and appellee's testator, to the board of supervisors and that they were then marked "forgery" by the board and the treasurer was directed to return them so marked to Mr. Barth. That was four years after they were issued and after they had been presented to the treasurer for payment and payment refused for want of funds and they had been stamped "Not paid for want of funds" and returned to the holder, and after they had been transferred once or twice. Marking them forgery amounted to no more than the bare assertion by the maker that they were forgeries without producing any proof that they were or specifying in what it was claimed the forgery consisted. That would not have the effect to alter the rules of evidence or impose upon the holder the burden of proving that they were not forgeries.

After appellee had rested her case an attempt was made by appellant, by leave of the District Court, to verify the answer. It was then claimed by appellant's counsel that the burden was thereby shifted upon appellee to show by some other proof than the warrants themselves that they

were valid, or, in other words, that they were not forged.

To this we reply that, even if the effect of a proper verification of the answer would be to shift the burden of proof, the affidavit of N. Gonzales attached to the answer, which is claimed to be a verification, is insufficient in that it does not appear that he had any knowledge of the facts or, if he had, that he was authorized to make the affidavit.

Record, pages 151, 152.

But the effect of the verification, if sufficient, would not be to shift the burden of proof, but simply to entitle the defendant to offer evidence in support of the defense set up in the answer. This was not done. No evidence whatever was offered having any tendency to show that the warrants were forged.

The Revised Statutes of Arizona of 1887 provide:

"735. (Sec. 87.) Any answer setting up any of the following matters, unless the truth of the pleadings appear of record, shall be verified by affidavit—

1. That the suit is not commenced in the proper county.

2. That the plaintiff has not the legal capacity to sue.

3. That the plaintiff is not entitled to recover in the capacity in which he sues.

4. That there is another suit pending in this territory between the same parties for the same cause of action.

5. That there is a defect of parties plaintiff or defendant.

6. A denial of partnership as alleged in the complaint, whether the same be on the part of the plaintiff or defendant.

7. That the plaintiff or defendant alleged in the complaint to be duly incorporated, is duly incorporated as alleged.

8. A denial of the execution by himself or by his authority of any instrument in writing upon which any pleading is founded, in whole or in part, and charged to have been executed by him or by his authority, and not alleged to be lost or destroyed. Where such instrument in writing is charged to have been executed by a person then deceased, the affidavit will be sufficient if it state that the affiant has reason to believe and does believe, that such instrument was not executed by the decedent or by his authority.

9. A plea denying the genuineness of the indorsement or assignment of any written instrument.

10. That a written instrument upon which a pleading is founded, is without consideration, or that the consideration of the same has failed in whole or in part.

11. That an account which is the foundation of the plaintiff's action and supported by an affidavit, is not just, and in such case the answer shall set forth the items and particulars which are unjust."

Revised Statutes of Arizona of 1887, page 174.

Subdivision 8 above quoted furnishes an exception from which it may reasonably be implied that in all cases, save where an instrument is charged to have been executed by a deceased person, it was the intention of the legislature to provide that the answer must be verified by some person having personal knowledge of the facts. The answer in this case is not within the exception yet it was not verified by a person who appears to have had knowledge of the facts.

Subdivision 8 above quoted requires "a denial of the execution" of the instrument on which suit is brought. The affidavit annexed to the answer contains no such denial. The statement in the affidavit that the warrants

are not genuine is a very different thing from stating that they were not executed.

The affiant really swears to nothing. He states that the "facts therein stated as defenses" are true. Facts are always and under all circumstances true. He does not state what matters contained in the answer are facts.

The statute nowhere provides that the effect of the verification shall be to shift the burden of proof. Without such provision the burden would not be shifted. The answer would not be good unless it was verified and the defendant would not be entitled to offer any evidence to support it. That can be the only effect of a lack of verification under the statute.

Counsel for appellant waived his position that the attempted verification of the answer, after appellee had rested her case, cast upon plaintiff the burden of explaining why the word forgery appeared upon the warrants and of showing that they were not forgeries, by stating to the court that it was immaterial to him in what order the proof was made. The reporter's statement shows the following proceedings after the attempted verification:

"By the Court: Are you ready to proceed with the case?

By General Wilson: We are ready, your honor. (The amendment is made, in that the answer is verified.) And I think that on the verified answer the onus is on them to proceed. However, I am not particular about the order in which it goes in. I think, though, that the onus is on them, but that will be a matter for argument later on. I would like to have Gonzales sworn."

Record, page 170.

Third. The findings of fact are general and support the judgment and, there being no question of the admissibility of evidence before the court, therefore, aside from

the question of whether or not the question of the statute of limitations having run against the warrants is raised by the demurrer, the record presents no question for the determination of this court.

Marshall vs. Burtis, 19 Sup. Ct., 290.
Cohn vs. Daley, Id. 802.
Salina Stock Co. vs. Salina Creek Co., 163 U. S., 109.
Grayson vs. Lynch, Id., 468.
St. Louis vs. Western Union Tel Co., 166 U. S., 388.

Fourth. The question as to whether or not the statute of limitations had run is not presented on demurrer for the reasons (a) that the appellant waived the demurrer by going to trial on the merits on the issue joined upon the complaint and answer instead of submitting the question on demurrer; (b) that the District Court did not dispose of the demurrer and therefore there is no judgment of the lower courts on the demurrer before this court for review; (c) if the District Court had rendered judgment overruling the demurrer, no appeal would lie to this court therefrom because such judgment would not be final.

The allegations of the complaint are, in substance, that the several warrants in controversy were duly issued and were at various times during the year 1884, presented by the lawful holder thereof to the treasurer of the county for payment, and payment was refused for want of funds; that the treasurer endorsed upon the warrants the words "Not paid for want of funds," with the date of the presentation, which endorsement was signed by him as treasurer. Then follow these averments, which are applicable to all the warrants,—"4."

"That in and by said presentation to and endorsement, as aforesaid, by said treasurer the warrant became, was,

and is entitled to preference as to payment out of moneys in said treasury appropriated to and belonging to said fund according to the priority of time in which the same was presented, as aforesaid, over other warrants on said fund; that said treasurer has not at any time since said warrant was so, as aforesaid, presented and endorsed by said treasurer, set apart any money nor so much as may be necessary for the payment of said warrant or any part thereof; that there has not been at any time since then nor is there now any moneys set apart in said treasury applicable to the payment of said warrant or any part thereof."

"That afterwards and on or about the fifth day of April, 1887, the defendant's board of supervisors, under and by virtue of chapter 2, title 31, of the Revised Statutes of Arizona, 1887, duly decided to fund and redeem all its outstanding indebtedness; and thereupon said board gave due notice that the said board would fund and pay in bonds all outstanding indebtedness of said county, including said warrant; and thereupon and within the time limited in said notice, to-wit, on January 9th, 1888, said Jacob Barth caused said warrant, among others, to be presented to said board for approval, redemption, and funding under said notice and law; but the said warrant or any part thereof the said board and said defendant failed and refused and still fails and refuses to approve, redeem, or fund."

Record, page 75.

The substance of these allegations is that the warrants were not paid on presentation in 1884, for want of funds; that in 1888 they were again presented, under a call made by the proper authorities of the county for the funding or redemption of all outstanding warrants, without reservation, and the validity of the warrants was then, for the

first time, disputed; that in the meantime there had been no money set apart in the fund on which they were drawn for the payment thereof.

If the statute of limitations began to run when the warrants were first repudiated, it appears from these allegations that they were not barred at the time suit was begun, which was in September, 1891 (Record, pages 52, 53), and the demurrer should be overruled. It should be overruled unless it affirmatively appears on the face of the complaint that the statute had run.

If the statute began to run when there was money provided in the fund or "set apart" to pay the warrants in the order of their presentation, or when sufficient time had elapsed for the county to provide the money in the mode pointed out in the statute, that raises a question of fact which cannot be determined on demurrer.

To this complaint the defendant demurred and answered at the same time. The grounds of the demurrer are, first, that the complaint failed to state facts sufficient to constitute a cause of action and second, that the warrants show upon their face that "more than five years elapsed from the date of the pretended issuance of the same and each of the same and from the time that they and each of them were presented to the treasurer of said county for payment until the bringing of this action."

Record, page 132.

Defendant also set up the defense of the statute of limitations in its answer as follows:

"4. Avers that more than five years have elapsed since the pretended issuance of the same" (warrants giving the numbers) "and the presentation thereof to the treasurer of said county for payment until the bringing of this action, and therefore the same is barred by the statute of limitations."

Record, page 137.

Upon the issue of fact thus joined between the parties by the complaint and answer, the case was tried and submitted to the District Court and judgment was rendered upon the evidence. No disposition appears to have been made of the demurrer. These proceedings are set forth in the findings and judgment of the District Court.

Record, page 154.

By going to trial upon the merits, the defendant elected to try the question of the statute of limitations in that manner and as raised by its answer to the complaint and not upon its demurrer.

Bell vs. Railroad Co., 4 Wall., 598.
Evans vs. Gee, 11 Pet., 79, 85.

The District and Supreme Courts of Arizona did not dispose of the demurrer. There is, therefore, no decision or judgment of those courts upon the demurrer which this Court can review. The only judgment rendered by the District Court was upon the merits after hearing the evidence offered on the issue joined by the complaint and answer and that is the only judgment which is before this court for review. That judgment is supported by the findings which are conclusive in this court.

A judgment overruling the demurrer would not have been final if the party demurring had the right to plead over and try the same questions which were involved in the demurrer under a plea or answer denying the allegations of the complaint.

Meagher vs. Minnesota Thresher Mfg. Co., 145 U. S., 608.
McLish vs. Roff, 141 U. S., 661.
Bostwick vs. Brinkerhoff, 106 U. S., 3.
Zeller vs. Switzer, 91 U. S., 487.
Miner's Bank vs. United States, 5 How., 213.

If the demurrer had been overruled the defendant in the District Court would have had its election to stand by its demurrer or go to trial on the merits on the issue joined on the complaint and answer. The answer was already in so that it would not have been necessary to have obtained leave to plead over. Defendant proceeded with the trial of the case on the merits the same as though it had exercised its election not to stand by the demurrer, but to plead over and try the case on the facts. Upon that issue it litigated the question of whether or not the warrants were barred by the statute of limitations. The findings and judgment of the court on all questions involved in that issue are final in this court. There is, therefore, no question here on the demurrer.

The issue thus joined involved questions of fact upon which the findings of the District and Supreme Courts of Arizona are conclusive.

Fifth. Even if the question as to whether the warrants were barred by the statute of limitations were before the court on the demurrer, it could not be determined for the reason that the statute did not begin to run until there was money set apart, in the treasury with which to pay them, in the order of their presentation, or until sufficient time had elapsed in which to procure the money in the mode pointed out by statute, or until the county repudiated the warrants; and the time when either one of these conditions began to exist does not appear on the face of the complaint, except that it does appear that the warrants were repudiated in 1888, less than five years before the suit was begun.

The statute of limitations of Arizona is as follows:

"2314. (Sec. 18.) Actions for debt when the indebtedness is evidenced by or founded upon any contract in writing executed within this territory shall be commenced

and prosecuted within five years after the cause of action shall have accrued, and not afterwards."

Revised Statutes of Arizona of 1887, page 407.

The Compiled Laws of Arizona of 1877, which apply to the warrants in question, provided:

"154 (Sec. 9). The county treasurer, when an order drawn on him, as such treasurer, by the commissioners of his county, is presented for payment, shall, if there be money in the treasury for that purpose, redeem the same, and shall write on the face of such order, "redeemed," the date of redemption and shall sign his name thereto."

"(155) Sec. 10. When any order or warrant shall be presented to the county treasurer for payment, and the same is not paid for want of funds, the treasurer shall indorse thereon 'not paid for want of funds' annexing the date of presentation and sign his name thereto, and from that time till redeemed, said order or warrant shall bear ten per cent interest per annum."

"(156) Sec. 11. So soon as there shall be sufficient funds in the treasury of the county to redeem the orders or warrants drawing interest, the county treasurer shall give notice in some newspaper in his county, or if no newspaper be printed in his county, then by written or printed notices posted upon the court-house door, stating therein that he is ready to redeem said orders or warrants, and from the date of such notice said orders or warrants shall cease to bear interest."

"(157) Sec. 12. When the county treasurer shall redeem any order on which any interest is due, he shall note on the order or warrant the amount of interest paid thereon, and shall enter on his account the amount of such interest, distinct from the principal."

"(158) Sec. 13. Orders or warrants drawn on the county treasury and properly attested, shall be entitled to preference as to payment out of moneys in the treasury

properly applicable to such order, according to the priority of time in which the same may have been presented. The time of presenting such order shall be noted by the treasurer, and upon the receipt of any moneys into the treasury not otherwise appropriated, it shall be the duty of the treasurer to set apart the same, or so much thereof as may be necessary for the payment of such order or warrant."

Compiled Laws of Arizona of 1877, page 56.

These provisions of the statute were first enacted in 1864 and are contained in Chapter 6 of the Howell Code. That entire chapter appears to have been borrowed from California as its provisions including the portions above quoted are identical with the California statute passed March 27th, 1850.

General Laws of California, 1850, 1864, Sections 7184 to 7202 inclusive.

If, under the foregoing provisions of the statute, the payment of warrants indorsed by the treasurer "not paid for want of funds," could not be coerced after such indorsement until there was money in the treasury with which to pay them, or until sufficient time had elapsed for providing the money in the mode pointed out by the statute, then the statute of limitations would not begin to run until after the money with which to pay them was in the treasury or until sufficient time had elapsed in which to provide the money; and that would involve a question of fact which could not be determined upon the demurrer to the complaint.

When the holder of these warrants presented them to the treasurer in 1884, and payment was refused for want of funds, and the treasurer took them and indorsed thereon "not paid for want of funds," and then returned

them to the holder, who accepted them with such indorsement written thereon, a new contract was effected between the holder and the county, whereby the holder consented to extend the time of payment until there should be sufficient money in the treasury with which to pay them. He held the warrants from that time forth subject to the provisions of the statute, the statute becoming, by implication, a part of the contract, as much so as though it had been embodied in the warrants themselves.

Lincoln County vs. Luning, 133 U. S., 529, 533.
Fernandez vs. City, 46 La. Ann., 1130.
State vs. Lincoln County Commrs., 23 Nev., 262.

The latter case arose under a statute of Nevada making provision for a fund to be applied to the payment of interest on county bonds. The statute provided that if the fund should be exhausted before the interest was paid, the interest coupons could be presented to the treasurer, who should indorse thereon a certificate of such presentation and thereafter the coupons should be payable, as money came in, in the order of their presentation.

The court say, as to coupons which had been so indorsed: "The creditor accepted this proposition when he presented the coupons and had their presentation certified by the treasurer. This was in the nature of an agreement for an extension of time for their payment. The creditor agreed to wait, no matter how long it might take, for payment under that arrangement, and he has waited accordingly. As long as the tax was being levied and collected there was no occasion for him to bring an action, and, if he had, it seems very probable it could not have been maintained, had the proper defense been made. But when the money was collected he would be entitled to it; then his cause of action would be fully ripe, and if

not presented within the statutory period, would doubtless be barred."

State vs. Lincoln County Commrs., 23 Nev., 262, 266.

The warrants were converted into interest bearing obligations and became payable thereafter in accordance with the provisions of Sec. 13, above quoted. Before they were indorsed they were not payable in any particular order. By such indorsement they became "entitled to preference as to payment out of moneys in the treasury properly applicable" thereto "according to the priority of time in which the same may have been presented." The holder could not coerce payment of a warrant out of its order, but must wait for payment until after those warrants, which had been presented before his, were paid.

The indorsement postponed the time of payment until all warrants "entitled to preference as to payment" were paid. The statute of limitations would certainly not begin to run against a warrant until the time for its payment had arrived. It would not begin to run against the warrants in question until there was money in the treasury set apart for their payment in the order prescribed.

King Bridge Co. vs. Otoe County, 124 U. S., 459.
Brewer vs. Otoe County, 1 Neb., 373.
Wilson vs. Knox County, 132 Mo., 387.
Grayson vs. Latham, 84 Ala., 546.
The Justices vs. Orr, 12 Ga., 137.
Fernandez vs. City, 46 La. Ann., 1130.
Frechill vs. Chamberlain, 65 Cal., 603.

The statute under which the warrants in *Brewer vs. Otoe County* were issued may be found in

King Bridge Co. vs. Otoe County, 124 U. S., 461, 462.

It is true that this Court, in *King Bridge Co. vs. Otoe County,* 124 U. S., 459), felt bound to follow *Brewer vs. Otoe County* (1 Neb., 373) in the construction there placed upon the Nebraska statute. But this Court announced, with apparent approval, the principle upon which that case was decided, namely, that "the cause of action did not accrue when the payment was refused, 'but only when the money for its payment is collected, or time sufficient for the collection of the money has elapsed.' "

This principle had already met with the sanction of this Court in *Lincoln County vs. Luning* (133 U. S., 529), where it is said by Mr. Justice Brewer:

"The coupons which by the general limitation law would have been barred, were presented, as they fell due, to the treasurer for payment and payment demanded and refused, because the interest fund was exhausted. Thereupon the treasurer registered them as presentd, in accordance with the act of 1877, and from the time of their registration to the commencement of this suit there was no money in the treasury applicable to their payment. This act, providing for registration and for payment in a particular order, was a new provision for the payment of these bonds, which was accepted by the creditor, and created a new right upon which he might rely. It provided, as it were, a special trust fund, to which the coupon holder might, in the order of registration, look for payment, and for payment through which he might safely wait. It amounted to a promise on the part of the county to pay such coupons as were registered in the order of their registration, as fast as money came into the interest fund; and such promise was by the creditor accepted; and when payment is provided for out of a particular fund to be created by the act of the debtor, he cannot plead the statute of limitations until he shows that that fund has been provided."

It is claimed by counsel for appellant that Arapahoe Village vs. Albee (24 Neb., 242) practically overrules Brewer vs. Otoe County. But such was manifestly not the intention of the Court. The former case is clearly distinguished from the latter for the reason, as stated in the opinion, that the Nebraska statute, applicable to county warrants and which the Court, in the former case, say the Court, in the latter case, held, took such warrants out of the statute of limitations, did not apply to village warrants. The statute applicable to county warrants, as quoted in the opinions in both cases, was similar in all essential particulars to the Arizona statute. It provided that orders not paid, on presentation, for want of funds, should be so indorsed by the treasurer, that thereafter they should draw interest at the rate of ten per cent per annum and be paid in the order of presentation.

There was no such statute in reference to village warrants, which were involved in *Arapahoe County vs. Albee.* It is the operation of the statute upon county warrants indorsed by the treasurer "not paid for want of funds," which makes them payable at such time as there shall be money in the fund on which they are drawn applicable to their payment, in the order of presentation, and not before, and prevents the starting of the statute of limitations until the warrants become payable in accordance with the terms of the statute.

The Court, in *Arapahoe Village vs. Albee,* does not overrule the doctrine laid down in *Brewer vs. Otoe County* that "Whoever deals with a county and takes in payment of his demand a warrant in the character of these, no time of payment being fixed, does so under the implied agreement that if there be no funds in the treasury out of which it can be satisfied, he will wait until the money can be raised in the ordinary mode of collecting such revenues. He is presumed to act with reference to the actual condi-

tion of the laws regulating and controlling the business of the country. He cannot be permitted, immediately upon the receipt of such warrant, to resort to the courts to enforce payment by judgment and execution, without regard to the condition of the treasury at the time, or the laws by which the revenues are raised and disbursed."

The correctness of this principle is affirmed in *Wilson vs. Knox County* (132 Mo., 387). In Missouri there is a special statute of limitations applicable to warrants which provides that the limitation of five years for bringing suit shall not begin to run on warrants endorsed "not paid for want of funds" until there are funds on hand with which to pay them. The Court says: "The principle established thereby that the holder of a county warrant is not to be barred of his action thereon if he diligently seeks payment thereof according to the requirements of the statute, until after there shall have been money in the treasury set apart for its payment, is not only consonant with justice and fair dealing, but conducive to the proper and orderly management of the financial affairs of the county, in which all its creditors ought to be paid as near as may be in the order of their priority, and in which all ought to be paid, except such as have lost their right by their own laches."

Wilson vs. Knox County, 132 Mo., 387.

Counsel for appellant has cited this case as it is reported in the 28 S. W. Rep., as sustaining the principle for which he contends, namely, that the statute began to run at the date of the warrants. But that decision is not authority, for the reason that it was rendered by one division of the Court and does not appear in the official state reports of Missouri. The case afterwards came before the Court in banc and is reported in the 132 Mo., 387. The decision of the Court in banc turns upon the point that the case is governed by the special statute referred to. The Court re-

frains from expressing any opinion as to whether or not the action would have been barred if there had been no special statute.

In *Cross vs. Board of Commissioners of Grant County* (54 Pac., 880), cited by counsel for appellant, the Supreme Court of New Mexico distinguished that case from *King Bridge Co. vs. Otoe County* on the ground that in the latter case there were a demand and refusal to pay within the statutory period, while in the former case the demand and refusal were considerably outside of that period. The authority of *King Bridge Co. vs. Otoe County* is not questioned.

There is no statement of facts in the report of the case of *Perry vs. Parish of Vermillion* (21 La. Ann., 645), also cited by counsel for appellant, except that it is stated that the suit was on warrants, which were over five years *past due*. That appears to be the limitation period. The only point decided was that the statute could be pleaded by the parish.

King vs. City of Frankfort (43 Pac., 983), is a decision of the Kansas Court of Appeals. It was an action on a warrant of the city *payable at a fixed date*. The Court held that the statute began to run on that date.

In *Carpenter vs. The District Township of Union*, 58 Ia., 335 (12 N. W., 280), the warrants were issued under a statute very different from the Arizona statute. But in that case it is intimated that if the warrants were, by the provisions of the statute, to be held until funds were in hand for their payment, they would not be barred until the statutory period had run, from the time the funds came in, and, on that ground an attempt is made to distinguish the case from *The Justices vs. Orr*, 12 Ga., 137.

In *Crudup vs. Ramsey*, 54 Ark., 168 (15 S. W., 458), cited by counsel for appellant, which was mandamus to compel the county treasurer to pay certain warrants

drawn on him, the Court held that the statute, which made warrants receivable for taxes irrespective of their number and date, was not intended to take them out of the operation of the general statute of limitations.

The case of *Crawford County vs. Wilson* (7 Ark., 214), also cited by counsel for appellant, decides that county warrants are transferrable by delivery, that the transferree is authorized to maintain suit in his own name, and that the original holder, who has parted with them for less than their face value, has no action against the county for the difference between their face value and the amount he received for them. The case decides nothing more. It does not decide when suit on such warrants may or must be brought.

While the case of *Goldman vs. Conway County* (10 Fed., 888), appears, at first glance, to be authority for the position taken by appellant, a careful consideration of the case discloses many reasons for disputing its authority in this case.

The Arkansas statute contains no provision making warrants indorsed "not paid for want of funds" payable thereafter in the order of their presentation, the necessary effect of which would be to postpone the time of their payment to some future day. Nor does the statute of that state provide for the payment of such warrants out of a fund to be "set apart" for that purpose, by the county treasurer, from money not otherwise appropriated.

The Court, in deciding *Goldman vs. Conway County*, does not question the authority of *Brewer vs. Otoe County* (1 Neb., 373), which was decided ten years before. It does attempt to state what was decided in the case of *Justices vs. Orr* (12 Ga., 137), but utterly fails to do so. The opinion states that *Justices vs. Orr* decided this and no more, viz.: that where a county is not liable to be sued on such warrants and cannot be coerced to levy a tax for their

payment, the statute probably would not run against them. As showing what was decided in *Justices vs. Orr,* we quote from the opinion of Mr. Justice Lumpkin in that case.

"How does the statute of limitations apply to a case like this? when did it begin to run? Certainly not on the date of the certificates; for by the terms of the law under which they issued, the debt against the county was to be liquidated in this way, when, for want of funds, prompt payment could not be made; and they were to be held until funds were in hand for their discharge. Application was repeatedly made for this purpose, and the holders were put off, on the ground that there was no money in the treasury, and no authority to levy a tax for their redemption. And payment never was denied until last February; nor did the statute begin to run until that time."

The Justices vs. Orr, 12 Ga., 137, 141.

Even if it can be contended that the case of *Goldman vs. Conway County* is any authority whatever in favor of appellant's position, in this case, the weight of authority was against it at the time of its decision, and it has not been followed by any court.

Thompson vs. Searcy County (57 Fed., 1030), was a suit on Arkansas County, warrants and followed the rule in that state in holding that suit might be maintained on county warrants as soon as they were delivered to the payee without regard to the state of the treasury. The references, on that question, are all to Arkansas decisions.

No attempt is made to lay down a rule which would be applicable elsewhere under a different statute. In that case the warrants had not been indorsed "not paid for want of funds" and were not held under a statute which postponed their payment to a future time; to some time after all other warrants entitled to preference as to payment had been paid and which made them payable out of

a particular fund to be raised and "set apart" for that purpose.

In all the cases, it is conceded or implied that the statute would not begin to run until the holder of the warrants was at liberty to pursue his remedy in the courts. It would seriously interfere with the orderly conduct of the affairs of the county if the holder of warrants which had been indorsed "not paid for want of funds," under the Arizona statute, could immediately, on receiving them back from the treasurer so indorsed, turn around and sue the county. Undoubtedly, if he waited sufficient length of time to enable the county to provide the money, in the mode pointed out by statute, and the county unreasonably neglected to provide it, or repudiated the warrants altogether, he could then sue, but not before.

Under a statute similar to the one in Arizona, in South Dakota, it was held that, if the treasurer attempted to pay any warrants out of the order of payment fixed by the statute, he would be enjoined at the suit of the holder of other warrants entitled to prior payment.

Freeman vs. City of Huron, 73 N. W., 260.

If the treasurer could be enjoined from paying warrants, which had been presented for payment and returned to the holder by the treasurer indorsed "not paid for want of funds," out of their regular order, it follows that he could not be compelled to pay any warrant until there was sufficient money in the treasury belonging to the fund on which it was drawn with which to pay it, in the order of its presentation. The remedy of the holder would be suspended in the meantime. The statute of limitations could not run while the remedy was suspended.

The time when there was money in the hands of the treasurer, with which to pay the warrants in question, in the order of presentation, cannot be ascertained without

looking into the evidence, which this court cannot do on this appeal, because the general findings of the District and Supreme Courts of Arizona are conclusive of every question of fact involved in the issue joined between the parties and tried in the case.

It has been held, in Texas, that the statute of limitations does not begin to run against county warrants until they have been repudiated by the county.

Leach vs. Wilson County, 62 Texas, 331.

It is alleged in the complaint that the warrants in question were repudiated by the county January 9, 1888.

Record, page 75.

If this Court were authorized to examine the evidence, as returned in the reporter's transcript, they would find proof to sustain this allegation.

Record, page 174.

They would also find that all the warrants presented for payment prior to January 1, 1885, which would include the warrants in question, were called for payment May 10, 1888.

Record, pages 180, 181.

This suit was begun in September, 1891.

Record, pages 52, 53.

Counsel for appellant, on page 27 of his brief, refers to the reporter's transcript for evidence that the county repudiated the warrants in 1885. We, of course, deny that there is any evidence returned to this court, to which reference can be made for any purpose whatever. Without waiving this position, we submit that the pages of the transcript referred to by counsel do not show anything of

the sort. If those pages could be examined for evidence, it would be found that they show nothing more than that the board of supervisors took action, in 1885, with reference to retaining counsel to prosecute certain persons charged with having forged warrants, but there is nothing to identify those warrants with the ones in question, besides if the warrants were identified, charging certain persons with forging them would prove nothing against the warrants. Retaining an attorney to prosecute a man for forging a paper falls a long way short of proving that the paper was forged. A resolution of the board of supervisors setting forth that they had examined witnesses in regard to certain warrants supposed to be fraudulent and that there was reasonable cause to believe that the warrants examined were fraudulent and instructing the treasurer not to pay them, without identifying those warrants, proves nothing against the warrants in suit. Neither is the admission of Mr. Johnston, attorney for appellee in the District Court, referred to by counsel as appearing in the pages above mentioned, that certain witnesses, which appellant proposed to call, would testify to certain things, any admission that those things were true, especially as he coupled his admission with an objection to the competency of the evidence offered. But this reference to the evidence is entirely impertinent, as the findings of the lower courts would be conclusive against appellant on every question of fact, even if the evidence were properly brought up.

In *Shannon vs. City of Huron* (9 S. D., 356, 363), it was held that as soon as money was collected in the proper fund, with which to pay warrants in the order of registration, the law made it the duty of the treasurer to set apart the money for that purpose, and that he thereafter became a trustee for the holder of the warrant.

Shannon vs. City of Huron, 9 S. D., 356, 363.

And in *Lincoln County vs. Luning* (133 U. S., 529), this Court said of an act providing for the registration and payment of coupons in a particular order that it created, as it were, a special trust which withdrew the coupons from the operation of the statute.

To the same effect are:

Underhill vs. Sonora, 17 Cal., 172.
Freehill vs. Chamberlain, 65 Id., 603.

Part of the warrants are drawn on the Road Fund. This appears at the head of the warrants, just over the date.

Record, pages 119, 121, 124, 129.

As to those warrants, suit could not be maintained without alleging that there was money in the fund with which to pay them.

Travelers' Ins. Co. vs. Denver, 11 Colo., 434.
Board vs. Mason, 9 Ind., 97.

In our case it is alleged that in 1888, less than five years before suit was brought, the county repudiated the warrants. At that time, of course, appellee's right to sue accrued, even if there was no money in the fund. To hold otherwise would be to hold that her right of action might never accrue.

As to the warrants drawn on the Road Fund, her right of action would not accrue, and consequently the statute of limitations would not begin to run against them, until either, there was money in the fund, or the county denied its liability altogether.

As to the remainder of the warrants, the act of the treasurer in indorsing them "not paid for want of funds" and returning them to the holder, thereby bringing them within the operation of the special statute applicable to such warrants, made them payable out of money there-

after to be "set apart," from the receipts of the treasury not otherwise appropriated, for their payment, in the order of their presentation. That made them payable out of a particular fund, in a particular way. They were not payable until money sufficient to pay them and all other warrants which should "be entitled to preference as to payment" * * * "according to priority of time in which the same may have been presented" was "set apart" for that purpose. The cause of action upon them would not accrue until that time, or until sufficient time had elapsed to provide the money, or until all liability on the warrants was denied by the county.

The authorities are agreed on this proposition.

Lincoln County vs. Luning, 133 U. S., 529.
Grayson vs. Latham, 84 Ala., 546.
Wetmore vs. Monona, 73 Ia., 88.
Sawyer vs. Colgan, 102 Cal., 283, 292.
Davis vs. Simpson (Nev.), 58 Pac., 146.
Forbes vs. Grand County, 23 Colo., 344.
State vs. Lincoln Co. Comm'rs, 23 Nev., 262.

It has been held in California that the legislative acts of that state providing for the funding of county indebtedness, have the effect of an acknowledgement or recognition of the indebtedness and withdraw the case from the operation of the statute of limitations.

Underhill vs. Sonora, 17 Cal., 172.
Freehill vs. Chamberlain, 65 Cal., 603.

On that principle the warrants in question would be withdrawn from the operation of the statute of limitations by the funding act passed by the Legislature of Arizona, March 19, 1891, which provides:

"Section 1. That the Act of Congress entitled 'An Act Approving with Amendments the Funding Act of Arizona,' approved June 25th, 1890, be and the same is hereby now re-enacted as of the date of its approval subject to the modifications and additional provisions hereinafter set out, and to carry out the purpose and intention of said Act of Congress, the loan Commissioners of the Territory of Arizona shall provide for the liquidation, funding and payment of the indebtedness existing and outstanding on the 31st day of December, 1890, of the territory, the counties, municipalities and school districts within said territory by the issuance of bonds of said territory, as authorized by said act and all bonds issued under the provisions of this act and the interest thereon shall be payable in gold coin of the United States."

"Sec. 7. Any person holding bonds, warrants or other evidence of indebtedness of the territory, of any county, municipality or school district within the territory, existing and outstanding on the 31st day of December, 1890, may exchange the same for the bonds issued under the provisions of this act at no less than their face or par value and the accrued interest at the time of exchange; but no indebtedness shall be redeemed at more than its face value and any interest that may be due thereon."

Acts of the Legislature of Arizona, 1891, *16th Assembly, Act number* 79, *pages* 97, 100.

The answer of Mr. Justice Doan in the opinion of the Supreme Court of Arizona filed in this case, to the position taken before that Court by the counsel for appellant, that the warrants in question were barred by the six months' statute of limitations of Arizona quoted in the opinion (Record, page 230), namely, that the statute refers only to unliquidated claims, which have been presented to the Board of Supervisors for allowance and not to warrants,

which represent claims that have been already passed upon or audited by the board, is supported by authority.

Lincoln County vs. Luning, 133 U. S., 529.
Lorback vs. Lincoln County, 94 Fed., 963.
Greeley vs. Cascade County, 57 Pac., 274.
Freehill vs. Chamberlain, 65 Cal., 603.

Reuben Hatch

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APACHE COUNTY *v.* BARTH.

APPEAL FROM THE SUPREME COURT OF THE TERRITORY OF ARIZONA.

No. 181. Submitted March 13, 1900. — Decided April 30, 1900.

In an action at common law to recover from a municipal organization upon a warranty issued by it, when the defendant denies the execution of it, and sets up that it is a forgery, the plaintiff, in order to be entitled to put the instrument in evidence, and thereby make a *prima facie* case, would be compelled to prove its execution.

The Revised Statutes of Arizona of 1887, provide: "735. (Sec. 87.) Any answer setting up any of the following matters, unless the truth of the pleadings appear of record, shall be verified by affidavit — . . . 8. A denial of the execution by himself or by his authority of any instrument in writing upon which any pleading is founded, in whole or in part, and charged to have been executed by him or by his authority, and not alleged to be lost or destroyed. Where such instrument in writing is charged to have been executed by a person then deceased, the affidavit will be sufficient if it state that the affiant has reason to believe and does believe, that such instrument was not executed by the decedent or by his authority." *Held*, That when the defendant did not verify his answer in a case provided for therein, the note or warrant or other paper sued on was admitted as genuine, but when an answer denying that fact was verified, the plaintiff must prove it as he would have to do at common law in a case where the genuineness of the paper was put at issue by the pleadings.

In September, 1891, Jacob Barth commenced an action in one of the district courts of the Territory of Arizona against the board of supervisors of Apache County, in that Territory, to recover upon certain warrants which he alleged had been issued

Statement of the Case.

by that county during the year 1884, and of which he claimed to be the owner. Barth soon thereafter died, leaving a will, which was proved in February, 1892, and by order of the court in March, 1896, the action was revived in the name of Julia Barth, the appellee, who was the executrix named in the will. She filed in March, 1896, by leave of court, an amended complaint containing forty counts upon as many different warrants, which she alleged had been issued by the board of supervisors of the county, on account of debts due from the county, and of which warrants she was the owner, and that the county owed her thereon an amount exceeding seven thousand dollars, for which sum she duly demanded judgment with interest. A copy of each warrant was annexed to the complaint and formed part thereof.

The defendant filed an unverified amended answer to this amended complaint, (which answer was subsequently verified,) and among other things denied that any of the warrants sued on had ever been issued or been directed to be issued by the board of supervisors of the county or by the authority of that board, but on the contrary defendant alleged that the pretended warrants sued on were, and each of them was, falsely made and forged, and that they were, and each of them was, a forgery, and that they were so falsely made and forged with a fraudulent intent to defraud the county of Apache. The defendant prayed judgment that plaintiff take nothing by her action, and for costs and for general relief.

Other defences were set up, among which was the statute of limitations.

The case came on for trial before the court, a jury trial having been waived, and the court having decided it, signed a statement of the facts found by it, in which it was stated that evidence had been introduced upon the trial, both oral and documentary, and upon the admission of the plaintiff the court found that the figures on eleven of the warrants (duly described and identified) had been altered and changed after they had been issued, and that such alterations and changes vitiated and rendered null and void those warrants as against the defendant, and that they were not valid claims against the county. The

court then made a general finding that all of the other warrants sued on were valid and subsisting legal claims against the county, and that plaintiff was entitled to recover upon each warrant the amount named therein, which, with interest, amounted to about the sum of fourteen thousand dollars, and for that sum judgment was directed to be entered, which was subsequently done. There was no further or special finding made by the trial court.

From this judgment an appeal was taken by the county to the Supreme Court of the Territory of Arizona, where it was affirmed.

The Supreme Court at the time of affirming the judgment made and signed by its Chief Justice a statement of facts in the case as follows:

"The Supreme Court takes the facts as found by the district court on the trial in that court and as shown by the record, and makes them the statement of the facts in this cause.

"This court finds that the district court did not commit error in finding against the plea of limitation set up by appellant.

"The court further finds that the district court did not commit error in granting and rendering judgment in favor of appellee on the warrants sued on and against appellant, notwithstanding the verified answer of appellant. The Supreme Court further finds that the district court did not commit error in refusing to render judgment for appellant on the verified answer of appellant, notwithstanding appellee did not introduce any evidence to establish the genuineness of said warrants for which appellee asked judgment, because the court finds that the warrants were verity of themselves, and the verified answer only put appellant in position in court to prove the facts set up in her answer, and did not put appellee on proof of their genuineness; hence the Supreme Court finds as a conclusion that the judgment of the district court should be affirmed. Judgment of affirmation and confirmation is therefore ordered and directed.

"This June 11th, 1898."

The county has appealed to this court from the judgment of the Supreme Court of the Territory.

Mr. J. F. Wilson for appellant.

Mr. Reuben Hatch for appellee.

Mr. Justice Peckham, after stating the facts, delivered the opinion of the court.

The statute approved April 7, 1874, c. 80, entitled "An act concerning the practice in territorial courts, and appeals therefrom," 18 Stat. 27, by the second section provides:

"That the appellate jurisdiction of the Supreme Court of the United States over the judgments and decrees of said territorial courts in cases of trial by jury shall be exercised by writ of error, and in all other cases by appeal, according to such rules and regulations as to form and modes of proceeding as the said Supreme Court have prescribed, or may hereafter prescribe: *Provided*, That on appeal, instead of the evidence at large, a statement of the facts of the case in the nature of a special verdict, and also the rulings of the court on the admission or rejection of evidence, when excepted to, shall be made and certified by the court below, and transmitted to the Supreme Court, together with the transcript of the proceedings and judgment or decree," etc.

The legislature of the Territory passed an act March 18, 1897, No. 71 providing as follows:

"Sec. 1. Whenever an appeal or writ of error is taken from any district or circuit court of this Territory to the Supreme Court of the Territory the appellant or plaintiff in error, as the case may be, may have the testimony taken in the case transcribed and certified by the court reporter and file the same with the papers in the case, and thereupon it shall become and be a part of the record in such case.

* * * * * * * *

"Sec. 5. All rulings made by the court below in opposition to the plaintiff in error or appellant shall be taken as excepted to by the party appealing or suing out the writ of error, and when assigned as error in the brief shall be reviewed by the Supreme Court without any bill of exceptions or other assignment of errors as herein provided."

This last act was passed subsequently to the trial of this action, but immediately after the filing of findings herein, and pursuant to its provisions, the reporter's notes of trial, with his certificate, were returned upon appeal, and are contained in this record.

This act could give us no jurisdiction to review an objection to evidence taken upon the trial, if no exception were taken, for the act of Congress of 1874, above cited, provides for a review in this court only when the decisions of the court were excepted to, and our jurisdiction is regulated by that act. *Grayson* v. *Lynch*, 163 U. S. 468, 474.

Upon a review of a judgment in a case not tried by jury and taken by appeal from the Supreme Court of a Territory, this court is by statute restricted to an inquiry, whether the findings of fact made by the court below support its judgment, and to a review of exceptions duly taken to rulings on admission or rejection of evidence. *Grayson* v. *Lynch*, 163 U. S. 468; *Bear Lake &c.* v. *Garland*, 164 U. S. 1, 18; *Harrison* v. *Perea*, 168 U. S. 311, 323; *Young* v. *Amy*, 171 U. S. 171, 183.

There is no bill of exceptions in the record, and there is nothing to show that any exception was taken on the trial to the admission or rejection of evidence. Counsel for appellee, therefore, urges that the only inquiry before this court is, whether the facts found by the trial court authorize the judgment which was entered, and he claims that upon those findings there can be no question that the judgment entered is right. This does not give the full and proper force to the additional finding of facts by the Supreme Court to which it is entitled. Although in that finding it is said that, "The Supreme Court takes the facts as found by the district court on the trial in that court, and as shown by the record, and makes them the statement of the facts in this cause," yet a perusal of the statement made by the Supreme Court renders it plain that such court found other facts in addition to those adopted from the district court, and those facts found by it should be regarded in the decision of this case.

What we regard as additional facts in the statement of the Supreme Court are regarded by counsel for the appellee as con-

clusions of law only, and he contends that we are confined to the general findings of fact made by the district court and adopted by the Supreme Court, and that upon those facts the appellee is clearly entitled to judgment. We cannot acquiesce in the correctness of the claim so made.

The Supreme Court in its statement finds a conclusion of law, viz: That the court below did not err in granting judgment for appellee; and this conclusion is immediately followed by the declaration "notwithstanding the verified answer of the appellant," which latter is a statement of fact. In addition to the fact thus stated, and in continuation of its statement, the court "further finds that the district court did not commit error in refusing to render judgment for appellant on the verified answer of appellant, notwithstanding appellee did not introduce any evidence to establish the genuineness of said warrants for which appellee asked judgment, because the court finds that the warrants were verity of themselves, and the verified answer only put appellant in position in court to prove the facts set up in her answer and did not put appellee on proof of their genuineness; hence the Supreme Court finds as a conclusion that the judgment of the district court should be affirmed."

We do not think that all of this can be called a conclusion of law only and not a finding of any fact. It is too technical a treatment of this statement to limit the finding of facts wholly to those set forth in the finding of the district court.

If we were not, in this particular, limited to the findings of the court, and could look at the notes of the stenographer taken on the trial and attached to the record by virtue of the territorial act referred to, we should there find that defendant was granted leave to verify its answer before the plaintiff rested her case, and that the answer was then verified and the plaintiff given opportunity to put in such evidence as she chose after such verification was made and before she closed her case. She did not avail herself of the leave, and the case rests only upon the production of the warrants, with the words indorsed thereon: "Not paid for want of funds; Presented Dec. 31, 1884. D. Baca, Treasurer, A. Ruiz, Deputy. Sol. Barth;" also the word "Forgery" marked in red ink across the faces of the warrants.

No proof whatever was given as to the genuineness of these signatures.

The finding of the Supreme Court shows that its decision was not placed upon the ground that the answer was verified after the plaintiff had rested; nor was its finding put on any ground of waiver. We must, therefore, take the fact that the answer was verified in ample time to call upon the plaintiff to prove the affirmative of the issues presented by the pleading.

Coming to an examination of the case in the light of these facts, we see that this was an action brought upon certain county warrants fully described in the amended complaint, and it was therein alleged that they were issued under the direction and authority of the board of supervisors of the county, signed by the chairman, and countersigned by the clerk of the board. The answer denied the fact that the warrants were issued by the authority or direction of the board, and alleged that they were forged warrants, and that the county was not liable thereon. Irrespective of any statute in regard to pleading, an issue was thus joined which raised the question of the genuineness of the signatures subscribed to these warrants; in other words, the question of their execution was put in issue, which would make it necessary for the plaintiff to prove that fact before they could be admitted in evidence. We are aware of no exception to this rule which would permit the introduction of alleged county warrants such as these, without any proof whatever of their execution. They do not prove themselves. The mere production of a piece of paper upon which is written or printed a promise to pay upon the part of a county, and upon which certain signatures appear, without the slightest proof of the genuineness of such signatures, does not entitle such paper to be admitted in evidence.

It is stated that it has been held by the courts generally that county and state warrants, signed by the proper officers, are *prima facie* binding and legal; that those officers will be presumed to have done their duty, and that such warrants make a *prima facie* cause of action, and that impeachment must come from the defendant. 1 Dillon's Municipal Corporations, 3d ed.

sec. 502. This may very well be in regard to those warrants when, as above stated, they have been, in fact, signed by the proper officers, and very probably the presumption may then be made that those officers who are proved to have signed the warrants have done their duty; but we are aware of no case where it has been held, in the absence of a statute to that effect, that the mere production of a paper upon which is written or printed an obligation of a county, bearing certain names thereon, can be put in evidence without the slightest proof that the signatures on the paper were those of the persons they purport to be. No such case has been called to our attention, and we think there is no principle upon which such a holding could stand.

The cases referred to by counsel simply hold the burden of proof shifted, after there has been proof of the execution of the warrants; that such proof makes out a *prima facie* case against the county. Such are the cases of *Commissioners &c.* v. *Day*, 19 Indiana, 450, and *Commissioners of Leavenworth County* v. *Keller*, 6 Kansas, 510. In both those cases the warrants were proved to have been signed by the proper authorities of the county before they were admitted in evidence, and it was said in the Indiana case, upon these facts, that "the officer, in the discharge of his general powers, will be presumed to have done his duty, in drawing the warrant or order, till the contrary appears; and, hence, such order makes a *prima facie* cause of action," citing *Hamilton* v. *The Newcastle & Danville Railway*, 9 Indiana, 359. And in the Kansas case it appeared that the county board audited and allowed the bill of claimant, and that a county warrant was drawn in his favor for the amount due, and signed by the chairman of the board, and it was held that upon those facts an action might be maintained on the warrant, but that it was liable to be defeated by showing that the tribunal which issued it had no authority to make the allowance on which the warrant was issued. In other words, that proof being given of the signature of the proper officer, the warrant was admissible in evidence and constituted a *prima facie* case against the county, and any

facts going to show that no cause of action existed rested upon the defendant to prove.

In *Grayson* v. *Latham*, 84 Alabama, 546, 549, 550, two county warrants were sued on which were alleged and purported to have been issued by the commissioners of the county of Pickens and signed by the probate judge. In delivering the opinion of the court, Stone, Chief Justice, said:

"The warrants declared on, issued and signed by the judge of probate, *as they were shown to have been*, *prima facie*, imported a liability on the county. . . . Upon the question we have been discussing, the plaintiff made a *prima facie* case when he produced *and proved* his warrants, showed that they had been registered, proved that, in the receipt and disbursement of county funds, the time had arrived for their payment, according to their place on the registry, and that payment has been demanded and refused; or, if payment was not shown to have been demanded, by proving that demand would have been unnecessary. Making this *prima facie* case, if made, the burden would then be shifted to the defendants to overturn the presumption of liability."

Another case relied upon to sustain the ruling of the courts below is that of *Wall* v. *County of Monroe*, 103 U. S. 74. That case does not show that the warrants were proved by their mere production; on the contrary, it appears that the warrants were drawn by the clerk of the county upon the treasurer in favor of one Frank Gallagher, and transferred by him to the plaintiff. Their execution was alleged and proved, and the question decided had no relevancy to the matter here under discussion.

No case cited by counsel shows that there is anything peculiar to a paper in the form of a county warrant which proves itself upon mere production.

It is clear, then, that at common law, in an action upon such an instrument, and upon a pleading denying the execution thereof by the defendant, and setting up its forgery, the plaintiff in order to be entitled to put the instrument in evidence, and thereby to make a *prima facie* case, would be compelled to prove its execution. The question is, what difference the statute of Arizona makes in this rule.

Opinion of the Court.

The Revised Statutes of Arizona, 1887, provide:

"735. (Sec. 87.) Any answer setting up any of the following matters, unless the truth of the pleadings appear of record, shall be verified by affidavit —

* * * * * * * * *

"8. A denial of the execution by himself or by his authority of any instrument in writing upon which any pleading is founded, in whole or in part, and charged to have been executed by him or by his authority, and not alleged to be lost or destroyed. Where such instrument in writing is charged to have been executed by a person then deceased, the affidavit will be sufficient if it state that the affiant has reason to believe and does believe that such instrument was not executed by the decedent or by his authority."

The answer in this case did deny the execution on behalf of the county of these warrants, and alleged that they were forgeries made to defraud it. The affidavit of verification was made by the clerk of the board of supervisors, who swore that the facts stated in the answer, as defences to the various causes of action declared on, were true, and that the warrants sued on were not genuine. The statute does not require that the affidavit should contain a denial of the execution of the instrument on which suit is brought. It requires that any answer which contains a denial of the execution of an instrument shall be verified, and the verification in this case is not open to the objection of insufficiency urged by the appellee.

We have then the fact as stated by the Supreme Court of the Territory, that this answer was verified, and that the appellee did not introduce any evidence to establish the genuineness of the warrants sued on, and as a conclusion of law from those facts the court held the plaintiff entitled to judgment on the ground that the verified answer did not put the plaintiff to proof of the genuineness of the warrants.

It seems plain to us that the court did not give that force to the verification of the answer which it was entitled to, and that by reason of such verification the defendant was not only put in position to prove the facts set up in the answer, but the plain-

tiff in the action was thereby compelled to prove the execution of the warrants by the proper officers of the county.

Statutes similar to this have been passed in other States, and it has been held in Colorado, in *Lothrop* v. *Roberts*, 16 Colorado, 250, 254, that an answer denying the execution of a note, under oath, made it necessary for the plaintiff to give proof of its execution before the note was properly admissible in evidence.

In *Horn* v. *Water Company*, 13 California, 62, under a somewhat similar statute, where the answer was a general denial, without verification, the genuineness and due execution of the note sued on were regarded as admitted.

To the same effect is *Corcoran* v. *Doll*, 32 California, 82, 88, where it was stated that the action being upon a note and the complaint containing a copy, and the answer not verified, the due execution of the note was admitted.

In *Shepherd* v. *Royce*, 71 Ill. App. 321, under a similar statute, it was held that the effect of the verification of the plea setting up the forgery of a note sued on, was to cast upon appellant the burden of proving the execution of the note as at common law, citing *Wallace* v. *Wallace*, 8 Ill. App. 69.

The Michigan courts have decided in the same way upon the same kind of a statute. *Ortmann* v. *Merchants' Bank*, 41 Mich. 482; *The New York Iron Mine* v. *The Citizens' Bank*, 44 Mich. 344.

We have no doubt that the effect of the statute of Arizona is that when the defendant does not verify his answer in a case provided for therein, the note or warrant or other paper sued on is admitted as genuine, but when the answer denying that fact is verified, the plaintiff must prove it as he would have had to do at common law in a case where the genuineness of the paper was put at issue by the pleadings.

Upon the facts found by the district judge and accepted by the Supreme Court of the Territory in this case, and upon the additional facts found by that court, we are of opinion that the judgment entered under its direction is erroneous, and not warranted by those facts, and therefore it is reversed, and the case remanded with directions to grant a new trial, and it is so ordered.